TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~388.~~ 1144 86 41

STEPHEN H. HEAD, APPELLANT,

vs.

EDWIN P. ARCHBOLD.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

FILED DECEMBER 13, 1866.

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3 UNITED STATES OF AMERICA,
Massachusetts District, ss:

At a circuit court of the United States for the first circuit, begun and holden at Boston, within and for the district of Massachusetts, on Monday, the fifteenth day of October, in the year of our Lord one thousand eight hundred and sixty-six, before the honorable Nathan Clifford, associate justice, and the honorable John Lowell, district judge:

In equity.

STEPHEN H. HEAD, complainant,
vs.
EDWARD P. ARCHBOLD, defendant.

The bill of complaint in this cause was filed in the clerk's office on the eleventh day of February, A. D. 1865, and was entered at the October term of this court, A. D. 1864, when and where the
4 parties appeared, by their respective counsel, and is in words and figures following, namely:

5 *Bill of complaint.*

United States of America: Circuit court of the United States, Massachusetts district, in equity.

To the honorable justices of the circuit court of the United States for the district of Massachusetts:

The bill of complaint of Stephen H. Head, of Boston, in the Commonwealth of Massachusetts, a citizen of the United States, exhibited against Edward P. Archbold, of the county of Cape Breton, province of Nova Scotia, a subject of Victoria, by the grace of God queen of the kingdom of Great Britain and Ireland, and an alien, now commorant in the said district of Massachusetts, respectfully represents:

For that whereas, Edward P. Archbold, the respondent, was, in the year one thousand eight hundred and sixty-one, the owner of land at Little Glace Bay, in the county of Cape Breton, and the province of Nova Scotia, and of a mining right under six hundred and forty acres of land situated on and near said Little Glace Bay, and had raised and was raising coal from the premises so described, of which coal there was a vein of about eight feet thickness; and whereas, the said respondent was desirous of interesting other parties in said mine, and extending the working thereof by aid of new capital; and
6 whereas, large amounts of capital were requisite to make the proper and necessary improvements in the premises, and in increasing the depth of water and the wharves at Glace Bay, and providing steam engines and railways from the pit's mouth, and building houses for the laborers, and other necessary improvements for the convenient and profitable development and improvement of said mining property; and being so desirous, the said respondent came to the United States, and held several consultations with complainant on

the subject; and that the said respondent met the complainant June 26th, 1861, at Boston, and requested complainant that he would undertake to get up a company of gentlemen of capital who would become interested in the said property and make the necessary advances for its development; and that he, the respondent, was desirous of converting his interest into a joint stock association or chartered company, provided other parties would subscribe a cash capital in the said company large enough to secure the necessary improvement and development of the property; and that the respondent would, in case that your orator could get up or procure parties to make such an arrangement with the respondent, give to your orator as his compensation twenty per cent. of whatever amount of capital stock should be fixed as the capital of the company by the said parties and the respondent when they should be brought together. Your orator accepted the said terms, and consented and agreed to use his knowledge and acquaintance with the capitalists and men of business of Boston and other parts of the United States, and to employ his time in procuring parties for such undertaking, and thereupon received from the said respondent detailed instructions and representations concerning the mining property and its advantages, together with the necessary documents for exhibition; and the said respondent left Boston and returned to Nova Scotia to attend to his affairs; and your orator proceeded in the work of procuring capitalists to interest themselves in said undertaking. Your orator, after diligent efforts, succeeded in interesting a gentleman of Boston, William P. Parrott, esq., and through him sundry other gentlemen, who consented to enter into the said undertaking; and four of them, in September, 1861, made a visit to Cape Breton, to examine personally the property, and see what the necessary expenditure would be. That they returned to Boston; and

7 that directly afterwards the respondent came up to Boston and met your orator and advised with him, so that the negotiations were successfully conducted; and upon the first day of November, 1861, the said party of capitalists, consisting of William P. Parrott, James W. Emery, Estes Howe, Joseph H. Converse, and Gardiner J. Hubbard, made a contract in writing with the respondent, under their several hands and seals, and delivered the same mutually, in and by which between the said parties it was mutually agreed that the said parties should apply to the legislature for the province of Nova Scotia for an act of incorporation for mining, and with the further right of opening and maintaining a harbor at Glace Bay, in Cape Breton; and that upon the obtaining the said charter, the lands and mining rights of the respondent should be conveyed to said company, as in the said contract thereafter was provided, and that the capital stock of the company should be fixed at one hundred and fifty thousand dollars, to be subscribed jointly by the parties, that is, the respondent to subscribe seventy-five thousand dollars, and the party of the second part seventy-five thousand dollars; and that the respondent should convey his land and mining rights, together with all the coal and personal property in and upon the said premises, used for carrying on the business of said mine to said company who shall pur-

chase the same at said price of seventy-five thousand dollars, payable in stock of the said company, at par; and the party providing the capital should pay up the sum of seventy-five thousand dollars by instalments, to be expended in opening the mine, as described in the said contract, together with sundry other articles and stipulations not pertinent to the subject of this bill; and it was further provided that in case the said act of incorporation should not be obtained, then the said premises should be conveyed to trustees, and be managed as a joint stock company, in accordance with the provisions of the said agreement.

Your orator further avers, that after the signing of this contract, that the respondent asked him if he would be satisfied to take fifteen per cent. of the capital stock as his compensation instead of twenty per cent. as agreed, and your orator refused.

Your orator further alleges, that immediately upon the executing and delivery of the agreement referred to above, that the said parties, so procured through your orator's services, did proceed to advance money and begun the various improvements agreed
8 upon in the said agreement, and also that due petition was made to the legislature of Nova Scotia upon its next ensuing session, and that on the twelfth day of April, eighteen hundred and sixty-two, by an act of the governor, council, and assembly of Nova Scotia, the said Edward P. Archbold, together with the aforesaid William P. Parrott, James W. Emery, Estes Howe, Joseph H. Converse, and Gardiner G. Hubbard, their associates, successors, and assigns, were duly constituted a body politic, by the name of the "Glace Bay Mining Company," for the purpose of opening and working coal mines in county of Cape Breton and transacting business connected therewith, and building mills and manufacturing coal oils, and constructing and making such railroads as may be necessary for the transportation of the production of such mines and other articles from thence to the place of shipment, and constructing and building such wharves, docks, and piers as may be necessary for the working of such mines, with an amount of capital stock of one hundred and fifty thousand dollars, in shares of one hundred dollars each, and with power to increase their capital to three hundred thousand dollars by the issue of new shares, on vote of the stockholders, and with liberty to proceed and render navigable Little and Big Glace Bays and Little and Big Glace Bay lakes from the ocean upwards, as soon as twenty-five per cent. should be paid in on account of the stock taken, together with other clauses not here set out, and for which reference is made to a copy of the said act, herewith made an exhibit, with liberty to refer thereto, which said act was duly published as a public law of the general assembly of the province of Nova Scotia, begun and holden at Halifax, on Thursday, the thirteenth day of February, 1862, in the twenty-fifth year of the reign of our sovereign lady Victoria, by the grace of God queen of the United Kingdom of Great Britain and Ireland, defender of the faith, &c.

Your orator further avers, that the respondent and the other named associates accepted the same and organized their company under this

act, and in conformity with the principles agreed upon in the contract before referred to, and that the said associates paid up their amounts and laid them out on the improvements as they had agreed in the contract; and that your orator also went to the works in question in March, before the passage of the act, and for many months, both before and after, gave his skill and services in promoting the rapid completion of the improvements, defraying the greater
9 part of his expenses out of his own pocket.

Your orator further represents, that seven hundred and fifty shares of the capital stock were subscribed for by the respondent and paid for by the conveyances stipulated in the contract aforesaid; and that seven hundred and fifty shares were subscribed for by the associates and paid as by said contract; and that on or about September 15, 1862, as he is informed and believes, the shares of the respondent were issued him and recorded on the books of the corporation.

Your orator further represents, that immediately after the last-named date, the respondent at Boston met your orator one day at the office of Wm. P. Parrott, and appeared to be in a great hurry, and said to your orator that he had some stock for him, or words to that effect, and pulled out some certificates, wrote assignments on their back, and handed to your orator certificates for two hundred and twenty-five shares of the stock of the said Glace Bay Mining Company. Your orator received the certificates of stock as it was handed to him, and without making any calculation of the amount then assigned to him. Your orator thereafter made the calculation, and discovered that only fifteen per cent. of the capital stock had been conveyed to him.

Whereupon he advised the respondent of the fact, and claimed of him that he should also convey five per cent. more of the capital stock, being seventy-five shares, to your orator, according to the terms of their contract,

The respondent put off your orator, saying that he had some figures at home which he must look at.

As your orator was intending to go down to Glace Bay the first of October, to push forward the improvements going on, he assented to the delay asked by respondent in making a final settlement.

Your orator further avers, that the respondent has since, by various pretences, put off and delayed performing his said obligation as to the remaining seventy-five shares; and also avers, that the respondent has frequently admitted to your orator, and also to others, that the original agreement between him and your orator, as is now claimed by your orator, was that respondent should give him twenty per cent. of the capital stock for his services.

And the said respondent has by various pretences put off and postponed a final settlement with your orator and deferred deliv-
10 ering the remaining quantity of shares, under said agreement belonging to your orator, alleging various frivolous pretences, amongst others, that the respondent considered that fifteen per cent. was enough for what your orator had done in the matter and business,

and still continues to withhold the seventy-five shares of original capital stock of the Glace Bay Mining Company.

Your orator further says, that since the time last above referred to, and whilst respondent has unjustly retained the seventy-five shares of original capital stock, which in equity belonged to your orator, there has been large profits made by the said company, and that in February, 1864, the company declared a dividend of thirty per cent. in stock of the company to the shareholders, and afterwards the company ordered a further increase of capital of twenty-five per cent. to be contributed pro rata by each share, issuing new stock therefor, and with the stock dividend aforesaid, carrying the capital to two hundred and fifty thousand dollars, and upon the twenty-first of January, 1865, a dividend was declared of twenty-five per cent. cash on the capital of $250,000, and at the same date a dividend in stock of the company of twenty per cent. on $250,000 was declared, making the present amount of capital stock $300,000.

And your orator avers, that the respondent has collected and received from the Glace Bay Company the above several dividends of stock and money upon the seventy-five shares of original capital stock that he then did and still does unlawfully withhold from your orator, and the said shares and the said money still unlawfully withholds from your orator to his great damage and injury.

Your orator further represents, that the said shares are of great value and the prospects of the enterprise are very fine.

And your orator further avers and shows unto your honor, that the aforesaid actings and doings of the respondent are in defiance of the rights of your orator, and tend to his great and irreparable loss and injury, and by which he has been, and still is, deprived of gains and profits which he might and could otherwise have obtained, and which have been received and enjoyed, and are still being so received and enjoyed by the respondent through his unlawful acts and doings.

11 And forasmuch as your orator can have no adequate relief except in this court, to the end, therefore, that the respondent may, if he can, show why your orator should not have the relief hereby prayed for, and may, upon his corporate oath, and according to his best and utmost knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to the premises, and to all the several matters hereinbefore stated, and charged as fully and particularly as is severally and separately interrogated as to each and every such matters, and may be compelled to convey to your orator the seventy-five shares of original stock, together with the stock dividends issued upon the same to the respondent; and also the dividends received by him upon all and singular the said seventy-five shares, and the other shares issued to him by way of dividends as aforesaid, and to account to your orator for all the profits by respondent acquired, and the damages by your orator suffered from the aforesaid unlawful acts, and also the said new stock, the right to take which came from the aforesaid unlawful acts; and also the said new stock, the right to take which came from the seventy-five shares illegally withheld; that the same may be delivered to your orator, and an account stated of the

amount advanced and the profits received by respondent of and concerning the same.

And your orator prays that the said Edward P. Archbold, his agents and attorneys, may be restrained and enjoined by the order and injunction of this honorable court from conveying or assigning to others the said one hundred and fifty shares of Glace Bay Mining Company, now in the possession of the respondent, which he unlawfully withholds from your orator; and that the said respondent may be decreed to pay the costs of this suit; and that your orator may have such further relief, and such other relief, as to this honorable court shall appear meet, and as shall be agreeable to equity.

May it please your honor to grant unto your orator a writ of injunction, issuing out of and under the seal of this honorable court, commanding, enjoining and restraining the said respondent, Edward P. Archbold, his agents and attorneys, and each and every of them, as is hereinbefore prayed.

May it please your honor to grant unto your orator a writ of subpœna, issuing out of and under the seal of this honorable court, directed to the said respondent, commanding him, by a certain day, and under a certain penalty, to be and appear in this honor-
12 able court, then and there to answer the premises, and to stand to and abide such order and decree as may be made against him.

And your orator will ever pray, &c.

S. H. HEAD.

CHAS. LEVI WOODBURY, *Solicitor.*

UNITED STATES OF AMERICA, *District of Massachusetts, ss:*

FEBRUARY 11, 1865.

Personally appeared Stephen H. Head, above-named, and made oath that the matters stated in the above bill are true, except those stated on information and belief, and these he believes to be true.

Before me.

S. E. SPRAGUE,
Clerk U. S. District Court.

On the first day of May, the following demurrer was filed, namely:

United States of America, circuit court of the United States, Massachusetts district.—In equity.

The demurrer of Edward P. Archbold, defendant, to the bill of complaint of Stephen H. Head, complainant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's bill to be true in such manner and form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer showeth that the said complainant hath not, in and by his said bill, made or stated such a case as doth, or ought to, entitle him to any such discovery or relief as is thereby sought and prayed for, from or against this defendant; wherefore, and for divers other errors and imperfec-

tions, this defendant humbly demands the judgment of this honorable court, whether he shall be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained, and prays to be hence dismissed with his reasonable costs in this behalf sustained.

EDWARD P. ARCHBOLD,
By H. W. MUZZEY,
Deft's Solicitor.

I hereby certify, that the foregoing demurrer, in my opinion, is well-founded in point of law.

H. W. MUZZEY.

10 I hereby consent that this demurrer shall be filed now, and that hearing may be had thereon; also that defendant may have leave hereafter to file *tunc pro nunc* the formal affidavit.

CHAS. LEVI WOODBURY,
Solicitor for Compl't.

UNITED STATES OF AMERICA, *District of Massachusetts, ss:*

Circuit court of the United States.—In equity.

STEPHEN H. HEAD
vs.
EDWARD P. ARCHBOLD.

I, Edward P. Archbold, the above-named defendant, on oath say, that the demurrer in my behalf heretofore filed in said suit, is not interposed for delay.

EDWARD P. ARCHBOLD.

CONSULATE OF THE UNITED STATES OF AMERICA,
At Halifax, Nova Scotia, 10th May, A. D. 1865.

This day personally appeared before me the above-named Edward P. Archbold and made oath that the within and foregoing statement by him subscribed is true.

Before me.

[OFFICIAL SEAL.]

M. M. JACKSON,
U. S. Consul.

This cause was thence continued to the May term, A. D. 1865, when the same was set down for hearing on bill and demurrer, and fully heard, and the demurrer was overruled by the court.

On the tenth day of October the following answer was filed, namely:

13 *Answer.*

United States of America, circuit court of the United States, Massachusetts district, in equity.

The answer of Edward P. Archbold, defendant, to the bill of complaint of Stephen H. Head, complainant:

This defendant, reserving to himself all right of exception to the said bill of complaint, for answer thereto saith: That he was, in the year A. D. eighteen hundred and sixty-one, the owner of the land and mining right mentioned in the said bill, and that he then had raised and was raising coal from the said premises; that there was thereon a vein of coal of about eight feet in thickness, and that he was desirous of extending the working thereof, and making the improvements in, upon, and near unto the said premises, as mentioned in the said bill; but he denies that he was led to come to the United States for the purpose of furthering his said desire as to the developement and improvement of the said mining property, or that he requested the complainant to get up a company of gentlemen of capital who would become interested in the said property, and make advances for its development, or that he was desirous of converting his interest in the said property into a joint stock association or chartered company, in the manner and at the time alleged in said bill; and this defend-

14 ant, further answering, says, that in the month of September, A. D. eighteen hundred and sixty, or thereabouts, a merchant of Boston, named George Hughes, the brother-in-law of William P. Parrott, one of the persons mentioned in the said bill, addressed a letter to the Honorable Thomas D. Archibald, of Sydney, in the province of Nova Scotia, making therein inquiries as to the name of the owner of the said coal mine, the extent and capabilities thereof, and the quantity of coal that could be raised therefrom and delivered in said Boston during said year; that the said Archibald handed the said letter to this defendant, and requested him to reply thereto; that the season being too far advanced to then allow of the mining and shipment to Boston of any large quantity of the said coal, this defendant concluded to visit, and did visit, said Boston for the purpose of conferring in person with the said Hughes upon the subject of the said letter; that, upon his arrival in said Boston, this defendant had an interview with the said Hughes, who then informed this defendant that he had made the inquiries contained in his said letter not for himself but on behalf of another person, and he thereupon took this defendant to said Parrott's office in Boston, and introduced him to the complainant as being the person in whose interest the said letter was written; that the complainant then and there inquired of this defendant if he would be willing to sell his said mine, or to allow a company to be formed for the purpose of working the same; that this defendant replied that he had never thought of this scheme, which was the truth; but that, after much conversation between the complainant, said Parrott, and this defendant, as to the said suggestion, this defendant finally consented to allow the com-

plainant to make an effort to sell one-half part of said mine, or to get up a company for working the same; and thereupon this defendant returned to his home. And this defendant denies that he, on June 26, A. D. eighteen hundred and sixty-one, or at any time, promised to give to the complainant as his compensation for getting up a joint stock association or chartered company for the purpose and in the manner alleged in his said bill, twenty per cent. of whatever amount of capital stock should be fixed as the capital of such company, when formed by the parties interested therein, and says that the subject of the complainant's compensation was not mentioned on said twenty-sixth day of June, nor until long after that time. And this defendant admits that he furnished the complainant with certain statements of facts concerning the said mining property for exhibition to persons who might become interested therein, but says that the same were furnished at the request of the complainant.

And this defendant, further, in answer to the complainant's allegation in the said bill, upon his information and belief, denies that the complainant made any diligent or efficient efforts for the carrying out of the said project, or did anything of consequence or value to interest therein any of the capitalists or men of business in Boston, or that the complainant had any acquaintance with or possessed any influence over such persons, or interested the said Parrott in the said undertaking, or through him the other persons named in said bill, or contributed in any way to the success of the same, or ever even met the said persons, excepting said Parrott, in regard to the same; but says that the said project was introduced to the attention of the gentlemen who thereafter became interested therein, and who are named in the said bill, solely through the efforts of the said Parrott, who was himself, in fact, the originator of the project, and suggested to the complainant himself the idea of engaging in the same, and who procured his said brother-in-law, George Hughes, to write the said letter to the said Archibald as to the said mines, and who was present at and took part in the first interview between the complainant and this defendant as to the same, and was ever thereafter in the defendant's confidence, and in constant consultation with him as to the said undertaking up to the time of the signing of the contract on the first day of November, A. D. eighteen hundred and sixty-one, mentioned in said bill; and who subsequently claimed and received from this defendant, with the knowledge and consent of the complainant, the compensation for his services hereinafter mentioned. And this defendant admits that four of the gentlemen named in the said bill, to wit: the said Parrott, James W. Emery, Estes Howe, and Joseph H. Converse, did, in September, A. D. eighteen hundred and sixty-one, personally visit and examine the said property; that soon thereafter this defendant did come to Boston; that the said Parrott, Howe, Emery, Hubbard, and Converse did consent to engage in the said enterprise; and that on or about the first day of November. A. D. eighteen hundred and sixty-one, the said Parrott, Howe, Emery, Hubbard, and Converse did make and enter into the contract with this defendant, the substance of which, as the defendant believes, is correctly

16 set forth in said bill, but, for greater certainty therein, this defendant craves leave to refer to the same when it shall be produced, if the same should become material in this suit; but this defendant denies that the making of the said contract was the result of any effort on the part of the complainant, or that the complainant was in any way instrumental in procuring the same to be entered into by the said parties thereto; and this defendant says that after the visit of the said Parrott and others to the said mining property, he was led to come again to Boston in consequence of a written request sent to him by the said Parrott, and that while in Boston he conferred and advised with the complainant in regard to the making of the said contract only at times when the complainant was in the company of the said Parrott, and always in association with him.

And this defendant, further answering, says that at about the time of the execution of the said contract, but whether just before or after it was signed, this defendant cannot now remember, he had a conversation in said Boston with the complainant, on which occasion the subject of the compensation to be paid by this defendant for the services that he, the said complainant, pretended to have rendered in connection with the making of the said contract was first mentioned between them; that the complainant then told this defendant that the said Parrott was entitled to share the amount of such compensation equally with the complainant; that the complainant then proposed that this defendant should pay as such compensation twenty per cent. of the capital stock of said company; that this defendant thereupon strongly objected that the amount proposed was too large; that the complainant replied that twenty-five per cent. was the common rate of compensation for similar services; and that this defendant then finally agreed with the complainant to pay him fifteen per cent. of the said capital stock as the full compensation for the services claimed to have been rendered, promised, and to be rendered by the complainant and the said Parrott, in the procuring and making the said contract, and organizing the said company; and the complainant then and there agreed for himself and the said Parrott to take and receive of this defendant the said fifteen per cent. as such full compensation for the said services. And this defendant denies that he ever asked the complainant if he would be satisfied to take fifteen per cent. of the capital stock instead of twenty per cent. as agreed, or ever

17 agreed to pay to the complainant twenty per cent. thereof, as alleged in the said bill.

And this defendant admits that, immediately upon the execution and delivery of the said contract, the said parties thereto did proceed to carry out the provisions thereof, and that due petition was made to the legislature of Nova Scotia by this defendant and the said Parrott and others for the act of incorporation of the Glace Bay Mining Company, and that the said act was duly published as a public law, as is set forth in the said bill. And this defendant further admits that he and his associates named in the said act of incorporation, accepted the same, and did the various acts under the same, and in conformity with the said contract, as is set forth in said bill; but this defendant

denies that the said Parrott and others, or either of them, were procured by the complainant, or were by him induced to enter into the said contract, or to make application for the said charter of the Glace Bay Mining Company, or to organize the said company, or to do any of the acts under the said contract and charter, as alleged in said bill. And this defendant further, in answer, says, that he believes it to be true that the complainant did, before and after the passage of the said act, render some service as to the extent of which this defendant is ignorant, in the carrying out of the work and improvements contemplated by the said contract and charter; but the defendant denies that he requested the complainant to render any such service or employed him therein, but says, upon his information and belief, that the complainant rendered such service at the request of the said Parrott; and the defendant is ignorant personally and by information and belief, and so can neither admit nor deny, whether, as alleged in the said bill, the complainant was at any personal expense on said occasions; but this defendant is informed and believes that the said Glace Bay Mining Company paid to the complainant the sum of five dollars a day for the period of his said services, and that the complainant was fully paid for the same.

And this defendant admits that seven hundred and fifty shares of the said capital stock was subscribed and paid for by him, and that seven hundred and fifty shares were subscribed and paid for by his associates, and that his said shares were issued to him and recorded on the books of the corporation, at or about the time and in the manner set forth in the said bill.

18 And this defendant further, in answer, says, that soon after his said shares were issued to him, as aforesaid, he settled in full with the complainant and the said Parrott, and paid to the complainant, in the office of the said Parrott, in Boston, the said compensation in full, as agreed upon by the complainant and this defendant, by assigning to the complainant and the said Parrott, and according to their order, two hundred and twenty-five shares of the capital stock of the said Glace Bay Mining Company, and then and there delivered to them the certificates thereof, the same being fifteen per cent. of the whole number of shares into which the capital stock of the said company was divided; that the transfer office of the said company was, at the time of the said transaction, located in said Boston; and that, previous to the delivery of the said certificates, as aforesaid, the said Parrott, in his said office, and in the presence and hearing of the complainant, and after consultation with him, told this defendant to take out the certificates in such manner as to be able to give to the complainant and the said Parrott, each seven and one-half per cent. of the said capital stock; and the said Parrott thereupon made in words and figures on paper a memorandum statement of the number of shares to which he and the complainant would each be entitled under the division thereof agreed upon between them, as aforesaid, and handed the said memorandum to this defendant for his guidance in taking out the said certificates. And this defendant accordingly then transferred to the complainant one hundred and thir-

teen of the said shares, and to the said Parrott one hundred and twelve of the same, the said transfers being made in accordance with the aforesaid agreement as to the division of said shares, made between the complainant and the said Parrott, and in compliance with the direction as to the same given to this defendant as aforesaid, and then delivered the said certificates to the complainant and the said Parrott. And this defendant further, in answer, says, that the said certificates were received and accepted by the complainant, in the manner and at the time aforesaid, as a full settlement for his said services, and payment therefor, by the defendant. And this defendant denies that on the said occasion he was, or appeared to be, in a great hurry, as alleged in said bill; but, on the contrary, he avers that the said settlement was made in a deliberate manner, and after a full computation of the number of shares to be delivered by the
19 defendant, and of the proper division thereof, had been made and by them delivered to the defendant as aforesaid, and that the said payment and settlement was made with a full undestanding of the same on the part of the complainant and the said Parrott.

And this defendant further, in answer, says, that although after the time of the said settlement he had many interviews with both the complainant and the said Parrott, and spent much time in their company at Boston, at Halifax, and at Glace Bay, and had other transactions with the complainant of purchase and sale of the stock of the said company, yet neither the complainant nor the said Parrott ever suggested to this defendant that he had not fully complied with and performed his agreement with the complainant and fully paid and settled with him, as aforesaid; or that any other or different agreement was ever made by the defendant with the complainant than that this defendant should pay to the complainant the amount of fifteen per cent. as his said compensation; or that the amount of said compensation had not been fully paid by this defendant to the complainant, as aforesaid, until a long time after the date of the said settlement, to wit: some time in the spring of A. D. eighteen hundred and sixty-four, when the complainant met this defendant, in Boston, and falsely pretended to him and claimed that there was still due to him from this defendant the amount of five per cent. of the said capital stock, as a part of the said compensation; which this defendant thereupon denied, and, in reply to the said demand of the complainant, affirmed that he had already paid, as aforesaid, the full amount of the compensation agreed upon, viz: the said amount of fifteen per cent. of the said capital stock, and had fully performed his contract with the complainant, but said he would, nevertheless, on his return to his home, look over his memorandum of the settlement, made as aforesaid, and if any mistake appeared therein he would cheerfully correct the same. And this defendant did, on his return to his home, examine his papers relating to the said contract and settlement with the complainant, and found that the same fully agreed with the facts hereinbefore stated, and confirmed the statements made to the complainant aforesaid by the defendant.

And this defendant further answering says, that the agreement

between him and the complainant was as hereinbefore stated, and that he has paid to the complainant the full amount of the compen-
20 sation agreed upon between them as aforesaid, and he denies that he has ever admitted to the complainant or to any other person, that the original agreement between him and the complainant was that he should give to the complainant twenty per cent. of the said capital stock for his services, but the contrary; he avers that he has ever asserted to the complainant, and to all other persons to whom he has ever mentioned the subject of the said compensation, that the agreement between him and the complainant was that he should give to the complainant only fifteen per cent. of the said capital stock as such compensation, and he has always denied that the said pretence of the complainant as to said agreement was founded in truth. And this defendant denies that he ever put off the complainant by saying that fifteen per cent. was enough for what the complainant had done in said matter and business; and denies that he ever made any such statement to the complainant, or to any other person, as alleged in said bill, but says that he always refused to pay the said amount of twenty per cent. claimed of him by the complainant, as aforesaid, on the ground that the agreement made between them was that only fifteen per cent. should be paid.

And this defendant further in answer says, that he is informed and believes it to be true, that the complainant originally applied to this defendant for employment in the said undertaking at the instance of the said Parrott, and in the interest and for the profit and advantage of the said Parrott, and that, during the entire period while the negotiations between the defendant and the said Emery, Howe, Hubbard, and Converse, were in progress, and in the making of the said contract between them and the defendant, the complainant and the said Parrott were and continued to be acting in concert and for their mutual advantage in the matter, and that they, the complainant and the said Parrott, for the purpose of inducing this defendant to employ the complainant in the said business, and to promise and pay to him the the large and disproportionate compensation of fifteen per cent. of the said capital stock for his services therein, conspired together and fasely and fraudulently represented to this defendant that the complainant was a person possessing a large acquaintance and influence with the capitalists and men of business in Boston, and having power and capacity to induce them to embark in the said enterprise; whereas, the complainant and the said Parrott well knew that the con-
21 trary was true, and that the complainant had no such acquaintance and influence with the capitalists and men of business of Boston, and was possessed of no power or capacity to induce them to engage in such enterprise. And this defendant further says, that confiding in the said false and fraudulent representations of the complainant and said Parrott, he was thereby induced to make, and did make, the said agreement to pay to the complainant the said amount of fifteen per cent. of the said capital stock for his pretended services, and to pay the same, as aforesaid.

And this defendant further in answer says, that he did not learn of

the said deceit practised upon him by the complainant and said Parrott as aforesaid, until long after he had paid and delivered to the complainant in the manner aforesaid, the said fifteen per cent. of the said capital stock, but at the time when he paid the same, he still supposed that the said representations were true, and that the complainant had rendered some substantial service to him in inducing the said Parrott, Emery, Hubbard, Howe, and Converse to make the said contract with the defendant, and to do the other various acts set forth in the said bill.

And this defendant submits, that inasmuch as his said agreement with the complainant was obtained from him by means of the conspiracy and fraud of the complainant and the said Parrott, as aforesaid, he ought not to be holden to perform such agreement, even if the amount of compensation by him promised to the complainant had been as is claimed in said bill.

And this defendant admits that large profits have been made by the said company, and that the dividends in stock and cash have been declared and paid in the manner set forth in said bill; that the amount of the capital stock in the said company was, at the time of the filing of the said bill, three hundred thousand dollars.

And this defendant further avers, that the market value of the said shares in the city of Halifax, was one hundred dollars each.

And this defendant denies that he ever agreed to pay to the complainant twenty per cent. of the said original capital stock; or that he has, for any time, unjustly retained in his possession and withheld from the complainant seventy-five shares of said stock, or any number of said shares, or any of the said profits, money, or dividends, either of cash or stock, or deprived the complainant of any gains or profits to which he was entitled as alleged in said bill.

22 And this defendant denies that the complainant is or ever was entitled to receive any of the said gains and profits, dividends in cash or stock, or money whatsoever, growing out of and accruing from the possession of the said seventy-five shares, or either or any part thereof and this defendant denies that he is liable to account for and pay over the same to the complainant.

And this defendant says, that he is not liable and ought not to be compelled to convey to the complainant the said seventy-five shares of original stock, nor the stock dividends that have been issued upon the same to him; nor the dividends received by him upon the said seventy-five shares or upon the said other shares issued to him by the way of dividends, as aforesaid; nor the said new stock, the right to take which came from the possession by him of the said seventy-five shares; nor either or any of the said shares; nor to account to the complainant for all or any of the profits received by the defendant by reason of his possession of the said stock; nor for any of the property claimed of him in said bill.

And this defendant denies that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed,

and avoided or denied, is true, to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges, in this behalf most wrongfully sustained.

EDWARD P. ARCHBOLD.

HENRY W. MUZZEY, *Defendant's Solicitor.*

UNITED STATES OF AMERICA, *District of Massachusetts:*

BOSTON, *Oct.* 4, A. D. 1865.

Personally appeared the above-named Edward P. Archbold, and made oath that the matters contained in the foregoing answer, so far as stated to be upon his own knowledge, are true, and so far as stated upon information and belief, he believes the same to be true.

Before me:

C. W. TUTTLE,
U. S. Commissioner.

[5-c. in. rev. stamp.]

This cause was thence continued to the October term, A. D. 1865, when on the fourth day of April, A. D. 1866, the following replication was filed, namely:

Circuit court of the United States, district of Massachusetts.

STEPHEN H. HEAD
vs.
ED. P. ARCHBOLD. } In equity.

This repliant, saving and reserving for himself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answer of the said defendant, for replication thereunto, saith, that he doth and will aver and maintain, and prove his said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant, and that the answer of the said defendant is very uncertain, evasive and insufficient to be replied to by this repliant; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied to and not herein and hereby well and sufficiently replied unto, confessed, or avoided, traversed or denied, is true, all of which matters and things this repliant is ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

M. E. INGALLS,
Solicitor for Complainant.

This cause was thence continued to the May term, A. D. 1866, when publication was ordered and the cause set down for hearing and fully heard.

Ans. Not from my own personal knowledge, only from hearsay. I was told he did.

27 Int. 8. If you shall say you know he did, please state who it was he so requested and whether said person did so write or not, if you know?

(Objected to as incompetent and irrelevant.)

Ans. I know, by hearsay, that Mr. Parrott got Mr. Hughes to write to Hon. Mr. Archibald, North Sydney, Cape Breton, for me.

Int. 9. When did you first meet Edward P. Archbold, the respondent in this case? Where was it? Who were present?

Ans. In Boston, at Mr. Odiorne's office, in June, 1861. Mr. Odiorne and one of his sons were present.

Int. 10. Were you or not introduced to him by any one; if so, by whom?

Ans. I was introduced to him by Mr. Odiorne.

Int. 11. If you shall say you were introduced to him by F. H. Odiorne, esq., state how you remember the same, whether or not there are any circumstances connected with the said introduction which served to fix the same in your memory; if so, what are they?

(Respondent objects to the witness stating the "circumstances" inquired of.)

Ans. I remember going into Mr. Odiorne's office one morning, and after bidding me good morning, he said, "shall I introduce you to Mr. Archbold, of Cape Breton, whose coal you have been looking at?" and introduced to me Mr. Archbold, who was then sitting down by the side of the table, and when he rose to shake hands with me his watch-guard caught on a key to one of the drawers of the table.

Int. 12. State whether or not you introduced the defendant to any one in Boston on or about that time; if so, who?

(Objected to.)

Ans. I did; to William P. Parrott, on Long Wharf.

Int. 13. If you shall say you introduced him to Wm. P. Parrott, state where and when it was that you introduced the defendant to said Parrott.

Ans. In June, 1861, on Long Wharf.

Int. 14. State all the conversation that occurred between you and the defendant at the time you were introduced to him.

(Objected to.)

28 Ans. After I was introduced to him at Mr. Odiorne's office he asked me to go with him to the American House to see his plans. As we were going I asked him why he did not ship more coal. He said he hadn't the means, that he wanted means to open a harbor, and asked me if I couldn't assist him. He said that he had some time before that requested Mr. Odiorne to assist him in getting up a company, but that he had failed to do so. I told him I would try and see what I could do. I then took him down to Long Wharf and introduced him to Mr. Parrott. He had his plans with him. Mr. Parrott was very busy, and could not give his attention to it then.

Int. 15. State whether or not in June, 1861, anything was said

between you and the respondent as to his selling his mine or property at Little Glace Bay, or as to the formation of a company for the working of the same. If yea, where and when did said conversation first take place? When, if at all, was the subject first mentioned between you?

Ans. There was; the same morning I was introduced to him, while we were going from Mr. Odiorne's office to the American House, where he had his plans.

Int. 16. State whether or not the defendant ever said anything to you about his being desirous of obtaining funds for the working of his said mine; if yea, where and when did he state it? State all you can recollect that was said upon the subject.

(Objected to.)

Ans. He did, in Boston, the morning I was introduced to him, and every time I saw him after that while he stayed in Boston.

Int. 17. State whether or not in June, 1861, you entered into any contract with the respondent in this case (E. P. Archbold) as to his mining property at Little Glace Bay; if yea, where and when was said contract entered into? Was it in writing; if so, please annex it, if not, describe the same.

(Objected to.)

Ans. I did, at the American House, June 26, 1861. It was not in writing. It was a contract by which I was to undertake to get up a company to work his mine for a certain compensation, if successful, then agreed upon; but the particular manner in which the mine was to be operated, whether by a joint-stock company or a chartered company,
29 was not then discussed, the object being to induce persons of capital to form a company to develop the mine; that compensation was twenty per cent. of the capital stock.

Int. 18. Has said agreement ever been altered or changed in any way?

(Objected to as leading and generally inadmissible.)

Ans. It never has.

Int. 19. State whether or not you entered into a contract with the respondent in June, 1861, by which you were to attempt to get up or procure parties to organize a company to purchase the respondent's mine? if yea, where and when did you enter into the same?

(Objected to as leading.)

Ans. Yes, I did; at the American House, June 26, 1861.

Int. 20. Was said contract in writing? if not, describe the same.

(Objected to.)

Ans. It was not; this is the same contract briefly described in answer to question 17. It was to attempt to get up a company, or to interest persons who would purchase, or take an interest in his mine, and he was to give me twenty per cent. of the amount of the capital stock, when that should be determined, in stock.

Int. 21. What compensation, if any, were you to receive if you succeeded?

(Objected to.)

Ans. Twenty per cent. of the capital stock, in stock, as before stated.

Int. 22. Was said contract limited in time; if so, at what time was it to expire?

(Objected to.)

Ans. It was, that season.

Int. 23. State whether or not in June, 1861, you entered into any contract with the respondent by which you were to attempt to organize a company for the purchase of the respondent's mine, and was to receive a certain compensation therefor, which said contract was to be carried out, if at all, during the respondent's stay in Boston at that time.

(Objected to as leading and inadmissible.)

Ans. I did not.

Int. 24. Did you or not have more than one interview with the respondent during his stay in Boston at that time, in June, 1861? If yea, where did they occur? Who, if any one, was present at the same?

Ans. I did, when we met at the American House, in the street once, walking round the common. No one was present.

Int. 25. State all the conversations, if any, that took place at the interviews inquired of in the preceding interrogatory with reference to the respondent's said mine.

Ans. He said his means were small, and when you worked on a small scale it didn't pay; that he wanted several things that he was not able to get, such as engines, pile-drivers, excavators, &c.; that he had no harbor; that it was open sea, and a vessel was not safe to lie there over night. I told him that at Nashua, New Hampshire, when they were using his coal, great fault was found with it because it was so sulphury, and because a good deal of roofing was in the coal. He said he knew he was injuring the sale of the coal, but he hadn't the means to go down deep to get the good coal. I told him that there did not appear to be any value in the mine as it was, and that the principal value of it would consist in what was expended in getting it ready to work. He said he was aware of that, and hence it was that he was so anxious to get up a company. At one conversation I named twenty-five per cent. of the capital as a suitable compensation, and he thought fifteen per cent. would be enough. I told him that I should have to give a part of it to some one to assist me. He said, if that is the case, we will split the difference and I will give you twenty per cent. if you will do it this season. After several conversations with him substantially of the same import as the above, I made the contract with him, as I have before stated. Then he left for Nova Scotia; in other words, the conversations ended in this contract.

Int. 26. State whether or not you ever undertook to get up or procure parties to organize a company to furnish capital for working the respondent's mine, or to purchase the same?

Ans. I did.

Int. 27. If you shall say, in answer to the preceding question, that you did so undertake to get up or to procure parties to form a com-

pany, state at whose request, if at that of any persons, you so undertook it?

31 (Objected to.)

Ans. At the request of respondent.

Int. 28. If you shall say that you undertook the said enterprise at the request of the respondent, state where and when he made such request?

Ans. At the American House, particularly, and substantially at all the conversations.

Int. 29. Did you or not arrange with the respondent the terms on which you would undertake said enterprise? If yea, what were those terms?

Ans. I did. Twenty per cent. of the capital stock, in stock, as before stated.

Int. 30. Was there or not any difficulty in arranging the terms upon which you would undertake said enterprise? If yea, state what the difficulties were, and all that took place between you with reference to the subject?

(Respondent objects to complainant's stating the "difficulties" inquired of.)

Ans. There was some hesitation on his part, as he seemed to think my price too high; but when he understood that I should have to give a portion to some one to assist me, he proposed, as before stated, to split the difference.

Int. 31. State whether or not you had any plans or descriptions of respondent's mining property at Little Glace Bay? If yea, from whom did you receive them?

Ans. I did, from respondent.

Int. 32. If you shall say that you received them from the respondent, please state when you first saw them, and whether you requested them of him, or how you obtained them?

Ans. In June, 1861. I did not request them of him; he gave them to me to exhibit them to others.

Int. 33. What steps, if any, did you take towards getting up or procuring parties to organize a company for the purchase of the respondent's mine? Whom, if any one, did you attempt to interest?

(Objected to.)

Ans. After Mr. Archbold left Boston I endeavored to interest parties in the project. I went to Messrs. Head & Perkins, to Mr. Cotton, to Mr. Bancroft, to several brokers, to some railroad com-

32 panies, and to some iron manufacturers, to interest them in the matter, but none of them would take hold of it that season. I then went to Mr. Wm. P. Parrott, on Long wharf, and

Ans. My recollection is not distinct upon that subject. I think it told him what I wanted to do, and asked him if he would assist me.

Int. 34. If, in answer to the preceding interrogatory, you shall say you attempted to interest Wm. P. Parrott, of Boston, state when you saw him, how you tried to interest him, what inducements, if any, you held out to him.

(Respondent objects to this question as leading, incompetent, and irrelevant.)

Ans. In July, 1861, by representing to him the quality of the coal, after I had tested it, and the general prospect of making a good thing out of it, especially if the war continued, as this would be likely to take the place of Cumberland coal; and to induce him to take hold I offered him part of my commissions.

Int. 35. State whether or not you ever pledged or offered to pledge said Parrott anything as security to save him harmless from loss if he would go into this enterprise? If so, what, and when?

(Objected to as leading, incompetent, and irrelevant.)

Ans. I did. My two patents for improvements in locomotives; these I pledged to him for that purpose in July or August, 1861; I think in August, and near the last of the month.

Int. 36. State whether or not you requested said Parrott to attempt to interest other parties in said project? If yea, did you request him to see any particular persons?

(Objected to.)

Ans. I requested him to assist me, but not to see any particular person.

Int. 37. Did you or not consider your contract with the respondent broken off by his departure from Boston in June or July, 1861?

(Objected to as leading, incompetent, and irrelevant.

Ans. I did not.

Int. 38. When did you next meet with the respondent subsequent to June, 1861, and where?

(Objected to.)

Ans. In October, 1861, in Boston.

Int. 39. State whether or not you were ever present at any
33 interviews between the respondent and said Parrott, in October, 1861, at which the terms of the sale of defendant's mine were discussed? If yea, where did said interview take place; how many were there, and who were present?

(Objected to as incompetent and irrelevant.)

Ans. Yes, I was; some at Wm. P. Parrott's office; some at the Revere House. There were several interviews; sometimes Mr. Parrott was present, and sometimes we were alone—the respondent and myself. I participated in these discussions.

Int. 40. What part, if any, did you take in said discussions?

(Objected to as incompetent and immaterial.)

Ans. I aided and assisted with all the knowledge I had acquired in relation to the business.

Int. 41. State, if you know, whether or not the defendant came to Boston in the fall of 1861, and entered into negotiations for the sale of his property at Little Glace Bay?

Ans. Yes, he did.

Int. 42. If you shall say that he did, what part, if any, did you take in said negotiations?

(Objected to as leading and irrelevant.)

Ans. Mr. Archbold came to Boston in October, 1861, and called on me, and said he depended on me to assist him, and I did until the contract was signed; and I did nothing else but assist him in his negotiations until the contract was signed.

Int. 43. State whether or not you had any interviews with the defendant in Boston in the fall of 1861, previous to the signing of the contract for the sale of his mine, at which the matter of said sale or any of the matters relating to said sale, or embraced in said contract, were discussed or mentioned. If yea, where were they, and who were present, and what was said?

(Objected to as leading and immaterial.)

Ans. Yes, I had, in Mr. Parrott's office, 40 State street—Mr. Parrott, respondent, and myself. Respondent asked ninety thousand dollars. I had ascertained that that sum could not be obtained, and so informed him; that nothing more would be given than would be required to put the mine in working order; and that, according to his plans and the estimates that were made, seventy-five
34 thousand dollars was all that would be required for that purpose. He finally came to the conclusion that he would take this sum. I cannot state all that was said, for we were several days in coming to an agreement; but the above is the substance.

Int. 44. State whether or not you rendered the respondent any assistance in his said negotiations. If yea, what assistance?

(Objected to.)

Ans. Yes, I did; I aided him in every way I could.

Int. 45. Were you or not in either of the offices of Messrs. Howe, Hubbard, Emery & Converse, 39 State street, Boston, during the fall of 1861. If yea, when was it? Who were present? Which office were you in? Where did you sit or stand? How long did you remain there?

(Objected to as immaterial.)

Ans. Yes, I was, about the 1st of November, 1861; Howe, Emery, Parrott, Archbold, and some others, who were signing the contract, in Mr. Howe's room. I stood up outside the railing. I remained there only a short time.

Int. 46. If you shall say you were in said office at or about the time inquired of, where did you go when you left there, and who, if any one, was with you?

(Objected to as immaterial.)

Ans. Down stairs, over the street to 40 State street; Mr. Parrott's office; Mr. Parrott, Mr. Archbold, and myself.

Int. 47. If, in answer to the preceding question, you shall say that you went to the office of Wm. P. Parrott, and that said Parrott and the defendant were with you, state whether or not at that time anything was said in your presence and that of the respondent and of said Parrott, as to your compensation for the services you had rendered the respondent in procuring said contract to be signed, and in interesting the gentlemen who were parties to said contract in the same. If yea, what was said? State the exact words if you can; if not, as near as you can recollect.

(Objected to as leading, incompetent, and irrelevant.)

Ans. Yes, there was. Mr. Parrott and Archbold were going down stairs together, and I was behind them. Something was said between them that I did not understand; but when we reached Mr. Parrott's

office I found it related to my compensation. Then Archbold
35 asked me if I would not be satisfied with fifteen per cent. of the capital stock as compensation, instead of twenty per cent. as he agreed. I told him no. I wanted my pay according to my original agreement, and would not have anything else. Mr. Parrott drew up a paper for me to sign, reckoning my compensation at fifteen per cent. I tore up the paper and threw it away in their presence. Archbold then said he didn't want any trouble, and said it would be all right, or he would make it all right. This is the substance, as near as I can recollect.

Int. 48. Where was said Parrott's office at that time?

Ans. No. 40 State street, as before stated. We were all in one room.

Int. 49. How many rooms did Capt. Parrott's office consist of at that time?

Ans. I think only one.

Int. 50. Was or not Capt. Parrott present at the interview and dispute inquired of in the forty-seventh question?

(Objected to as leading, incompetent, and irrelevant.)

Ans. Yes.

Int. 51. Did you or not, at the time inquired of in the preceding question, (forty-seventh interrogatory,) have any discussion with the defendant as to your compensation? If yea, was said Parrott in the same room, or another room adjoining, during said discussion?

(Objected to.)

Ans. Yes, I did. Parrott was in the same room.

Int. 52. State whether or not said Parrott, at the interview inquired of in the forty-seventh question, attempted to settle the dispute between you and Archbold as to compensation. If yea, what did he do or say on the subject, and was or not the defendant present and knowing to the same?

(Objected to as leading, incompetent, and irrelevant.)

Ans. Yes. He wrote a paper soon after he got to his office, putting my compensation at fifteen per cent., as I have already stated. I don't recollect what Parrott said. Defendant was present, and knowing to the same.

Int. 53. State whether or not, in the spring of 1862, you went to Little Glace bay and assisted in carrying out the improvements being made there?

36 (Objected to as leading and irrelevant.)

Ans. I did.

Int. 54. If you shall say that you did, state at whose request you went, and what assistance, if any, you rendered.

(Objected to as leading, incompetent, and irrelevant.)

Ans. I volunteered to go with Mr. Parrott. When I got there, there was no timber to build our boats. I hunted up the timber and men, and started the work. Mr. Parrott was chief engineer, and I assisted. We did not find the harbor as Archbold had represented. His plans were wrong, and the difficulty of making a harbor much greater than he had represented; and to hurry the work along it

became necessary for me to work in the water a great deal. This was just after the ice broke up, and I had to go in, in order to get the men to. Where Archbold said there was four feet of water there was a sand bank, with hardly any water over it.

Int. 55. State whether or not you ever received any compensation for said services. If yea, how much?

(Objected to.)

Ans. I have; I can't tell exactly.

Int. 56. Please examine the paper annexed to these interrogatories and marked A 1, and state whether or not it is a copy of an account presented by you for your services at said time. If yea, state whether the same is correct, and whether the said sum of five dollars per day expresses what you considered the true value of the services rendered at that time by you. If not, why not?

(Respondent objects to this question as leading and incompetent and irrelevant, and objects to the witness stating what he "considered the true value of his services.")

Ans. I signed a bill that Mr. Parrott or Mr. Archbold made out. This may be a copy. I considered it a bill to cover my expenses. I did not consider it pay for my services, because five dollars a day would not pay me for my labor.

Int. 57. State whether or not you were in the office of Wm. P. Parrott, in Boston, in September, 1862, with said Archbold and Parrott, when anything was said in regard to the compensation to be paid to you or to you and Parrott by the respondent.

Ans. Yes.

37 Int. 58. If you shall say that you were present at such an interview as inquired of, please state all that was said upon the subject that you can recollect. Did or not said Parrott consult with you as to the number of shares to be given to him and the number to be given to you? Did you or not see said Parrott make any calculation and hand the same to the defendant? if yea, did you go over the same either alone or with Capt. Parrott?

(Objected to as leading and immaterial.)

Ans. I was in Parrott's office when Archbold came up from an office below, in a great hurry, and said they were issuing or had issued stock below. I said I will take my stock now. He said, well; and then turned to Parrott and said, you are quicker in figures than I am, you figure it out. He did so. Archbold asked Parrott how he would have his. Parrott said in one certificate. I said I would have mine in three or four. After Parrott made his figures he passed them over to Archbold. I did not see them to know what they were, or upon what basis they were made. Archbold ran down stairs, and soon came back, in a great hurry, with the certificates, taken in his own name and endorsed by him. He gave Mr. Parrott his certificates and passed mine over to me. I put mine in an envelope and thought no more of it. Parrott did not consult with me as to the number of shares to be given to me and to him. I saw him figure and hand the result to defendant. I did not go over the figuring, either alone or with Parrott.

Int. 59. State whether or not you knew at the time what per cent. of the stock of the Glace Bay Company said calculation was based on?

(Objected to as leading, incompetent and immaterial.)

Ans. I did not.

Int. 60. Did you or not ever authorize Capt. Parrott or any one, to receive from the defendant fifteen per cent. of the capital stock of the Glace Bay Mining Company as your compensation in full, for services rendered respondent in forming said company?

(Objected to as leading, incompetent and immaterial.)

Ans. I never did.

Int. 61. Did you or not know at the time you received two hundred and twenty-five shares of stock in the Glace Bay Mining Company from the respondent, what per cent. of the stock of said com-
38 pany, said two hundred and twenty-five shares were?

(Objected to as leading, incompetent and irrelevant.)

Ans. I did not.

Int. 62. Had you or not, at the time said stock was paid you by the respondent, made any calculation, or requested any one to make any for you as to how many shares twenty per cent. of the capital stock of said company would be?

(Objected to as leading, incompetent and immaterial.)

Ans. I had not.

Int. 63. State whether you supposed at the time said stock was paid you, that you were getting fifteen, or twenty per cent. of the amount of the capital stock of said company?

Objected to as leading, incompetent and immaterial; respondent also objects to witness giving his "supposition.")

Ans. I supposed I was getting twenty per cent., according to my agreement.

Int. 64. If you shall say in answer to the sixty-two question that you had made no such calculation nor procured to be made such a one as inquired of, state when, if ever, since then, you made such a one or procured such a one to be made?

(Objected to as leading, incompetent and immaterial.)

Ans. That fall, after Archbold had left.

Int. 65. When did you first discover, and how, that you had received fifteen per cent. of stock instead of twenty per cent.?

(Objected to as leading, incompetent and immaterial.)

Ans. That fall; I was talking over the matter with a friend; he aske if I had got my stock; I said yes. He asked how much it was; I told him twenty per cent. This led to an estimate, when the mistake was discovered.

Int. 66. When, if ever, did you first inform the respondent that he had paid you fifteen instead of twenty per cent. of stock and demand the remaining five per cent.?

(Objected to as leading, and otherwise inadmissible.)

Ans. I think it was in September, 1864.

Int. 67. Did you or not ever demand of the respondent the

39 additional five per cent. of stock claimed by you, more than once; if yea, when and where?

(Objected to as leading, and otherwise inadmissable.)

Ans. I did; the second time was at Glace Bay, Cape Breton, late in fall, 1864.

Int. 68. When did you first, if ever, demand of the respondent the additional five per cent. of stock?

(Objected to.)

Ans. In September, 1864, as before stated.

Int. 69. If you shall say in answer to the preceding question that you made such demand first in 1864, state whether or not there was any reason for your not making said demand sooner; if yea, what was said reason? State fully.

(Objected to as leading, incompetent and irrelevant. Respondent objects to the witness giving his "reason" for staying his demand.)

Ans. Yes, there was. When I discovered the mistake Parrott was at Cape Breton. When I went down I told him about the mistake, and proposed to mention it to Mr. Archbold. Mr. Parrott requested me not to, as there was some trouble about back leases, and we had better get one thing settled at a time. I took his advice and did not mention it then. In other words, in consequence of what Mr. Parrott said, I did not mention it to Archbold.

Int. 70. State whether or not you had any interview with the respondent previous to the commencement of this suit, at which anything was said in regard to said compensation or your claim for five per cent. additional; if yea, state all that was said at each interview, where they took place, and when?

(Objected to.)

Ans. I did; the first in Mr. Parrott's office, in Boston, in September, 1864. Archbold then admitted that he agreed to give me twenty per cent. Soon after, in same place, we met again, and I demanded the five per cent. additional again. We had considerable talk. He again admitted that the original agreement was twenty per cent., but said we had altered it, and he had papers at home that would show it. Mr. Parrott finally stopped us, and said we had better wait till we went to Cape Breton. When Archbold left Boston I walked down to the boat with him. We talked upon this subject as we walked down. I told him he ought to give me the rest of the stock;

40 that it would have been a failure if it had not been for me; that I had to do the work which he ought to have done. He admitted it might have gone another season. I asked him if he wouldn't send the stock up if he couldn't find the papers, for I knew he couldn't. He talked as if he would; that it would be all right. We next met in the Company house at Cape Breton. Mr. Parrott, Mr. Archbold, and myself were present. I asked him then for those papers he spoke of in Boston. He then went into his room, remained there some time looking over his papers, then came out with a piece of brown paper, having some figures in pencil of his own on it, and showed it to me. I asked him what that meant; told him there were no figures of mine on the paper. He said it was some figures that

he made; he couldn't tell himself what they were. I told him it was wrong for him to try to cheat me out of that after I had done so much; that I had injured my health in pushing the business forward, and had made a rich man of him; and from a poor man he had been made rich through my exertions, and that it would have been a total failure if it had not been for me. He said it might have gone over another season. I told him this would have been tantamount to a total failure. As to paying me the additional five per cent. he wouldn't say much, only ask me why I didn't get it on the settlement. I told him I thought I did. He said he supposed he should have paid it then, or language to this import; and this was about all he would say: "Why didn't you get it on the settlement." The next time we met was at my room in the Halifax Hotel, in Halifax. He came into my room; I mentioned again to him about my five per cent. He didn't exactly deny or refuse, but said he would see about it. Next time was in the street, in Halifax. I mentioned it to him and he asked me why I didn't get it at the time we settled. The next time was at the Revere House, in Boston. This time he denied the claim plumply; then I commenced my suit. This was the first time that he ever distinctly refused to pay me.

Int. 71. State whether or not in 1864 you demanded of the respondent five per cent. of stock additional as your compensation, in Boston; if yea, who was present?

(Objected to as leading.)

41 Ans. I did as before stated; Mr. Parrott was present, at his office, 39 State street.

Int. 72. If you shall say you did make such a demand, and in the presence of Wm. P. Parrott, of Boston, state all that was said upon the subject, in the presence of said Parrott. State the exact words, if you recollect them; if not as near as you can recollect?

(Objected to as leading and incompetent.)

Ans. We went over the whole contract, and I asked him if his agreement was not to give me twenty per cent. if I got up a company, or a company was got up through my influence. He said yes. I then said to him, why don't you pay me this five per cent.? He then muttered over something that I did not distinctly understand, and said, "why didn't you get it at the time?" I said, you know very well how it was; that I hadn't talked with Parrott; that you came up into Parrott's office, and said they were issuing the stock; I said I would take mine; Parrott said he would take his; that Parrott figured because he was more expert in figures than I was; that you came into the office in a hurry; that it was done in a short time; that I did not look at the figures to see upon what basis they were made. I don't know what reply he made to this.

Int. 73. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

(Objected to.)

Ans. I think I do; I think I have not stated anywhere the trouble and expense I was at in introducing the respondent's coal; I went to several of the railroads and steamboats to get opportuuities to test the coal, and finally succeeded at the Old Colony Railroad, by being responsible for the detention of trains, if any should occur in consequence. By means of this, Mr. Odiorne was enabled to sell a cargo that was consigned to him, in my belief. It was a new mine, and everybody was afraid of it. During all the time from June, 1861, to November of the same year, I was using every effort in my power to get the coal into the market and use. In doing this, I spent a great deal of time and incurred heavy expenses.

42 *Cross-interrogatories. De bene esse.*

Cross-int. 1. Did you not first see the defendant at the office of William P. Parrott, in Boston?

Ans. I did not.

Cross-int. 2. When did you first see the defendant in said Parrott's office, and was or not said Parrott there present at that time?

Ans. In October, 1861. Parrott was present.

Cross-int. 3. Have you ever conversed with F. H. Odiorne as to where you first were introduced to the defendant? If yea, how lately, and where?

Ans. Yes; some time since I commenced the suit.

Cross-int. 4. Have you had any conversation with said Parrott as to whether you were first introduced by him to the defendant? If yea, when and where did you last, if more than once, converse with said Parrott on this point?

Ans. I never had, to my recollection.

Cross-int. 5. Were not your conversations with the defendant upon the subject of getting up a company to work his coal mine held in said Parrott's office, and did not said Parrott take an active part in those conversations?

(Objected to.)

Ans. Such converations were held with the respondent in Mr. Parrott's office, in October, 1861. Mr. Parrott did participate to some extent, in some of them. I would not say that he took an active part in these conversations.

Cross-int. 6. At the time when you first conversed with the defendant on the subject of interesting capitalists in his coal mines, who was present? When did this conversation take place?

Ans. Nobody; in June, 1861, while going from Odiorne's office to the American House.

Cross-int. 7. Previous to this conversation, had you or not had consultation with said Parrott as to the said subject?

Ans. No.

Cross-int. 8. Did you, at the conversation referred to, make any statements to the defendant as to your experience and success
43 in the business of getting up companies to develop mining properties? If yea, what did you tell had been your experience and success in such matters?

Ans. I did not.

Cross-int. 9. Did you also state to the defendant that you possessed a large and influential acquaintance with the capitalists and business men of Boston, and was of great advantage to you in such undertakings?

Ans. I told him I was acquainted with a good many consumers of coal. I answer the question by saying I did not, to my recollection.

Cross-int. 10. Did you offer to give the defendant the benefit of your "large and influential acquaintance with the capitalists and business men of Boston," and of your "experience" in getting up companies?

Ans. I never did, in the form in which the question is put.

Cross-int. 11. Did you tell the defendant what was your usual charge for your services in such undertakings?

Ans. I did not tell him what my usual charges were in such cases.

Cross-int. 12. In point of fact, at the time when you first conversed with the defendant on the subject of getting up a company of capitalists for the improvement and development of his mining property, what acquaintance had you with "the capitalists and men of business of Boston and other parts of the United States?" Name those you knew, and state their business, and where they resided, and whether you had had any business transactions with them; and if so, what and when?

(Objected to.)

Ans. I was acquainted with Messrs. Head & Perkins, Mr. Horatio Bigelow, Mr. Bancroft, Mr. Cotton, and several others who resided in Boston; Mr. Parrott, Mr. Odiorne, Hon. Albert Smith. Head & Perkins are brokers, Bigelow is engaged in mining extensively, Bancroft was a broker, cotton manufacturer, Parrott, a civil engineer, Odiorne, a merchant. I have had dealings with some of these, which I cannot here state in detail.

Cross-int. 13. Did these persons, if you are able to name any such, become interested in the defendant's property?

Ans. Mr. Parrott did.

Cross-int. 14. Name all of "the capitalists and business men of Boston and other parts of the United States," to whom you
44 ever presented the project which you say you undertook to carry out for the defendant?

Ans. Head & Perkins, Mr. Bigelow, Mr. Cotton, Mr. Bancroft, Mr. Parrott, and to several in New York, whose names I cannot now give; some railroad corporations in Massachusetts—Boston & Maine, and Old Colony.

Cross-int. 15. Is it not true that the only person who was known to you at the time when you engaged to get up a company to work the defendant's mine, and who afterwards became pecuniarily interested therein, was Wm. P. Parrott?

Ans. Yes.

Cross-int. 16. Was not said Parrott then an engineer, and in the practice of his profession in Boston?

Ans. Yes.

Cross-int. 17. Was he a "capitalist," a person of large means, to your knowledge or in your belief, at that time?

Ans. I supposed he was, and I do not know anything to the contrary now.

Cross-int. 18. Were not your efforts confined to getting an agreement from the defendant to pay you a commission in connection with the getting up of the proposed company?

(Objected to.)

Ans. No.

Cross-int. 19. Did not said Parrott, in fact, procure all the parties who took an interest in the enterprise?

Ans. Yes.

Cross-int. 20. Did you personally know one of the gentlemen (except said Parrott) who entered into the contract with the defendant, dated Nov. 1, 1861, at the time when that contract was signed?

Ans. By sight and reputation I did; but I had no personal acquaintance with them.

Cross-int. 21. Had you, in fact, at the time when the defendant engaged your services, ever got up a joint stock association or chartered company? If yea, when, where, for what purpose; of what persons was it composed, and what did you do about getting it up?

Ans. I never had.

Cross-int. 22. Did not said Parrott personally apply to every
45 person who took a pecuniary interest in the contract of Nov. 1, 1861, out of which grew the Glace Bay Mining Company.

Ans. I do not know.

Cross-int. 23. Did not said Parrott do this for one-half of the compensation promised you by the defendant?

Ans. He did not upon that alone.

Cross-int. 24. Did not said Parrott agree with you that he would give his services to the enterprise for one-half of what you were to get from the defendant?

(Objected to.)

Ans. He would not unless I would indemnify him against loss.

Cross-int. 25. Did not he, for one-half the compensation promised by the defendant, do all that was done to induce the parties who signed the said contract to enter into the same?

(Objected to.)

Ans. He did, for one-half the compensation I was to have, and for his indemnity against loss, or because he was indemnified against loss.

Cross-int. 26. If you or any one besides said Parrott did anything to induce the said parties to make that contract, state what you did to that end, or what any one except what said Parrott did.

(Objected to.)

Ans. I did nothing, and do not know that any one else besides Mr. Parrott did.

Cross-int. 27. Did you tell said Parrott, when you promised him for his assistance one-half of the compensation to be received from the defendant, how much the defendant had agreed to give?

Ans. Yes, I did, twenty per cent. of the capital stock.

Cross-int. 28. When first did you tell said Parrott of your agreement with the defendant?

Ans. Last of June or first of July, 1861?

Cross-int. 29. What was your occupation or trade at the time when you met the defendant in June, 1861? What had it been previous to that time, and for how long? State fully.

Ans. I was trying experiments with coal on railroads, putting my patents on. My occupation prior was a machinist, and as foreman in shops; for some years prior to this, engineering with F. W. Lander, afterwards General Lander, and prior to this with the Hon. Albert Smith, now of Boston, on the northeast boundary.

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Cross-int 30. Had you been a broker, or engaged in the business of getting up joint-stock associations or chartered companies?

Ans. No.

Cross-int. 31. State all that you said to the defendant of your qualifications for and experience in such business, and of your means of interesting capitalists in such undertakings.

Ans. I told him, as near as I can recollect, that I was acquainted with a good many who had got up companies, and that I would see them and get what information I could.

Cross-int. 32. Were not you, at the time when you undertook to get up a company to purchase the defendant's mine, already associated with said Parrott in making experiments for the substitution of coal for wood in locomotives?

Ans. Mr. Parrott owned with me in the patents. I was making experiments at my own expense.

Cross-int. 33. Had not said Parrott employed you as a machinist, and obtained work for you as a boiler-maker?

Ans. No.

Cross-int. 34. Did you get said Parrott to write a letter for you to Mr. Archbold, the defendant, dated August 20th, 1861? Is the writing annexed hereto, and marked B, a copy of said letter?

Ans. Mr. Parrott did write a letter and I signed it. The paper annexed, and marked B, may be a copy. I have no means of identifying it.

Cross-int. 35. Did you receive a reply from said Archbold, the defendant, to said letter? Is the writing hereto annexed, and marked C, a copy of said reply so received by you?

(Objected to.)

Ans. I received a letter, but do not know that the paper annexed and marked C is a copy.

Cross-int. 36. Where is the original letter received by you from the defendant? and when did you receive it?

(Objected to.)

Ans. I do not know; in due time.

Cross-int. 37. Will you please annex it to your depositions?

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(Objected to.)

Ans. I cannot, for I have not seen the letter since about the time it was received, as I did not like it; I took no particular notice of it.

Cross-int. 38. Did you show said letter to said Parrott? If yea, how soon after you received it?

Ans. I cannot recollect.

Cross-int. 39. Did said Parrott also write a letter himself to the defendant on August 20, 1861? Did you see the letter he wrote?

Ans. I cannot say, of my own knowledge. I do not remember of seeing it.

Cross-int. 40. Did said Parrott also receive a reply from the defendant to his (Parrott's) own letter at the same time that you received the reply to yours?

Ans. I do not know, of my own knowledge.

Cross-int. 41. Were not both letters from the defendant dated the same day and received by the same mail?

Ans. I cannot say.

Cross-int. 42. Did you during the year 1861 receive any other letter from the defendant?

Ans. No.

Cross-int. 43. Did not the defendant always object to paying more than fifteen per cent. for your services?

Ans. No.

Cross-int. 44. When was the amount to be paid to you finally agreed upon?

Ans. June 26, 1861.

Cross-int. 45. State the exact words used by you and by the defendant at that time.

Ans. I cannot state the language any better than I have in answer to interrogatory twenty-five in chief, to which I refer.

Cross-int. 46. Was any different arrangement ever agreed upon by you and the defendant afterwards? If yea, when and what was it?

Ans. No.

Cross-int. 47. Did you offer to buy any coal of the defendant when he came to Boston in June, 1861?

Ans. Not exactly so. I asked him if he could sell by contract five thousand tons, and he said no.

48 Cross-int. 48. Did said Parrott offer to buy any?

Ans. Not that I know of.

Cross-int. 49. How long had you known said Parrott previous to June, 1861?

Ans. I have known him ever since I was a boy, and been acquainted with him sixteen or seventeen years.

Cross-int. 50. If in answer to direct interrogatory No. thirty-five, (35,) you shall have stated that you pledged anything to said Parrott as security, state what you pledged; where you got the thing pledged; of whom and when you obtained it; what you gave for it, if anything; where it is now; whether you have ever disposed of it; if so, when, to whom, and what you got for it, if anything. State also whether you pledged the thing to Parrott in writing, and if yea, state where the writing is; and if it is not in your possession now, state the contents of the same. Answer fully.

Ans. My interest in two patents for improvements in locomotives,

I invented them—one wholly, and partly of the other one issued to William P. Parrott and myself, February 1, 1859, called "Improved Variable Exhaust Pipe;" the other patented November, 1, 1859, called "Improvement in Steam Boilers;" this I wholly invented; the other William P. Parrott and myself invented. These cost me years of labor and thousands of dollars. I still own the same interests; my pledge to Parrott was verbal.

Cross int. 51. State whether the pledge, if any, was given to said Parrott to induce him to take a share in the enterprise itself, or to aid you in getting it up.

Ans. To aid me in getting it up.

Cross-int. 52. When did said Parrott himself determine to take a share in the enterprise?

Ans. The first I knew of it was after Mr. Archbold came to Boston in October, 1861.

Cross-int. 53. Was it before or after you promised to share with him the compensation to be paid by the defendant?

Ans. After.

Cross-int. 54. Did you do anything yourself in October, 1861, while the defendant was in Boston, to forward the making of his
49 contract with Mr. Hubbard and others? If yea, state all that you did to influence those gentlemen, or either of them, to enter into said contract.

(Objected to.)

Ans. I did. I did nothing to influence either of those gentlemen; my time was principally with Mr. Archbold; he came to me and said he depended on me to assist him, and I did nothing else but assist and aid him till the contract was signed.

Cross-int. 55. State all that you ever did to induce the persons who signed the said contract with Mr. Archbold to make the same, or ever did, or pretended to do, to entitle you to claim compensation from him.

(Objected to.)

Ans. I did not do anything with them. Mr. Archbold knew I was not acquainted with them. We had to do everything through Mr. Parrott.

Cross-int. 56. Were not you paid for the labor performed by you about the purchase of the machinery for the associates in the fall of 1861, and also paid for the work done by you at Glass Bay in 1862, and did not you present bills for said labor, and were not they paid by the associates and Glass Bay Mining Company, and did not you receipt these bills?

Ans. I did get pay for getting the machinery. I did not consider that I got pay for my labor at Glace Bay in 1862. The bills were made so as to cover my expenses, as I understand; for I did not make out the bills; in fact, what I got did not cover my expenses, for I was paid in American money, and the loss on it reduced the sum realized below my expenses. I did receipt the bills I believe.

Cross-int. 57. Were not said bills approved by said Parrott and paid on his certificate? Did not he fix the value of your said services?

Ans. To the first clause—yes, as far as I know. For getting the machinery I made my own price,—ten dollars a day; for the work in 1862 I took no part in making up the bill, but on being told it was made so as to cover my expenses only I receipted it, as before stated.

Cross-int. 58. Did you ever claim anything of Mr. Archbold individually on account of the work done by you for the associates or the company?

Ans. No.

Cross-int. 59. Did you do any work before November, 1861?

50 Ans. I can't understand the question.

Cross-int. 60. Upon what services, state fully, do you found your claim for compensation from Mr. Archbold?

Ans. Upon my services rendered under my contract made with him at the American House in June, 1861.

Cross-int. 61. In what capacity do you claim that Mr. Archbold employed you? what were you to do, as you understood it, for the commission that he promised you?

Ans. By contract, as above stated, to assist him in getting up a company, which I did.

Cross-int. 62. On what services, actually rendered by you personally, do you found your claim against him? What do you claim has been done by yourself individually to earn the compensation you have already received, and seek from Mr. Archbold. State fully.

Ans. On various services from the time I made my contract with him in June, 1861, till the company was formed. I claim that I was the means of getting up the company that took his mine.

Cross-int. 63. If you shall have said that you were in the offices mentioned in direct interrogatory No. forty-five, state how long you were there, and whether you spoke to any person there.

Ans. Only a short [time;] not until we were coming out; then Mr. Archbold spoke to me, and said it was all done or fixed.

Cross-int. 64. State all that you said, and all that Mr. Archbold said, to the best of your recollection and belief, on the occasion referred to in the forty-seventh direct interrogatory. Did Mr. Parrott say anything? If yea, what?

Ans. I refer you to my answer to the forty-seventh direct interrogatory for what was said on that occasion, according to the best of my recollection. I don't recollect as Mr. Parrott said anything.

Cross-int. 65. How was said Parrott occupied at the time? Was he not in the adjoining room during most if not all of your interview with Mr. Archbold?

Ans. He went into his office and drew up the paper that I tore up. He was not.

Cross-int. 66. Was said Parrott then fully informed as to what you claimed, or the amount of stock Mr. Archbold had promised to give you?

51 Ans. If you mean, when Mr. Parrott went into his office with Archbold, at that time, I will say, that he ought to have known, for I had told him; but what conversation he and Archbold had going over to Parrott's office, I do not know, as I was behind, and

did not hear; or what that conversation had to do with the paper Parrott drew up for me to sign. If you mean after this conversation with Archbold in Parrott's office, I should say yes.

Cross-int. 67. Did you fully explain your view of the matter before said Parrott?

Ans. I think I did—I know I did.

Cross-int. 68. Were you and said Parrott equally interested in the matter then being discussed?

Ans. We were.

Cross-int. 69. Was said Parrott present during the whole of the conversation?

Ans. He was.

Cross-int. 70. State all that you know he then heard you and Mr. Archbold say?

Ans. He was present, and could have heard as well as I.

Cross-int. 71. Did you and said Parrott work together in the matter, and do you claim that you are entitled to compensation for what he individually did to induce the making of the contract of Nov. 1, 1861? If yea, on what grounds? State fully.

(Objected to.)

Ans. We worked to the same end, but not together; yes, I do, because I employed him to do so.

Cross-int. 72. State all that was done and said by and between yourself, Mr. Archbold and Captain Parrott on the day in Sept. 1862, when Mr. Archbold delivered to you and said Parrott fifteen per cent. of the capital stock.

Ans. I refer to my answer to direct interrogatory fifty-eight, as the best answer I can give to this.

Cross-int. 73. When did you first inform Mr. Archbold that said Parrott was to share with you the commission to be paid by said Archbold?

Ans. I don't recollect.

Cross-int. 74. In your letter to Mr. Archbold, dated Aug.
52 20, 1861, you ask him to write to you whether he "will be willing to proceed in the matter," &c.,—did not you consider Mr. Archbold as at liberty to treat the matter between yourself and himself as at an end when he left Boston, in June, 1861? What was meant by the expression quoted from your said letter?

Ans. I did not, for I considered I had the whole season to do the business. I did not write the letter, and I do not know what Mr. Parrott's motive was, perhaps he wished to have something in writing.

Cross-int. 75. After the transaction with Mr. Archbold in September, 1862, when he paid to you and Capt. Parrott the fifteen per. cent., did you not wait two years, namely: till September, 1864, before intimating to him in any way that you were not disposed to accept the said payment as a full settlement?

Ans. Yes.

Cross-int. 76. Did you, during said period of two years, make any claim whatever upon Mr. Archbold?

Ans. No.

Cross-int. 77. What depositions taken in this case or copies thereof have you read or heard read?

Ans. A few lines of Capt. Parrott's· I heard a few questions put to Mr. Ordiorne, but being sick, I could not stay to hear his testimony; this is all.

Cross-int. 78. After said Parrott had finished his deposition taken in this suit, did not you and he go from Boston to Halifax together and return in company to said Boston?

Ans. Yes.

Cross-int. 79. Did not you converse with him during said journey about his deposition and other matters connected with the present suit?

Ans. No, not to my knowledge.

Cross-int. 80. Did you hold any interest in the "back leases," so called? What interest had you, if any; and how and when did you acquire it?

Ans. No.

Cross-int. 81. Did you in the fall of 1862, propose to Mr. Joseph H. Converse, the treasurer of the Glass Bay Mining Company, to go to Glass Bay and give your services there in the prosecution of the work during the remainder of the season, without charge,
53 provided he would loan you one thousand dollars? Did you obtain said loan on said terms, and go to Glass Bay accordingly?

Ans. The business was not done in that form; I went down to Glace Bay because I was deeply interested in the concern, and wanted to see [it] in good condition for winter; I did borrow one thousand dollars of Mr. Converse, gave him collateral security, and paid him interest on his money, this is the manner in which the business was done.

Cross-int. 82. Did you estimate the value of your said services at ninety dollars, and sign your name to the receipt therefor, which is hereto annexed and marked D?

Ans. I did not intend any such thing, Mr. Converse made the receipt and I signed it, I think, but am not certain, at any rate I signed it as covering my work on the machinery. No money was paid to me, nor was it allowed in the settlement of the thousand dollars and interest.

Cross-int. 83. Have you received any letters from said William P. Parrott relating to this suit in any way since your return from Halifax?

Ans. I have not.

Cross-int. 84. In what condition is your health? If you are ill, please state the nature of your sickness, and whether or not you have had medical attendance for it since your return from Halifax in February last? If yea, give the name of your physician and state how frequently since said time he has visited you professionally, and where?

Ans. Poor; neuralgia; I have; Dr. Palmer, at the Parker House;

several times; Dr. Hill, of Augusta, Maine, has been consulted by me; I have not been well since last September.

Cross-int. 85. Where do you reside?

Ans. In Boston.

Cross-int. 86. Were not you present while the depositions of F. H. Odiorne and William P. Parrott were being taken in this suit in Boston, in June and January last?

Ans. But a small part of time.

Cross-int. 87. How frequently did you meet Mr. Archbold after the said payment of stock, in September, 1862, and before the time in Sept., 1864, when you claimed of him five per cent. additional stock?

Ans. I cannot tell.

54 Cross-int. 88. Did not you pass several weeks in the same house with Mr. Archbold at Glass bay, in October and November, 1862?

Ans. I did some time, I cannot say how long.

Cross-int. 89. Were not you in company with Mr. Archbold in July, 1863; also at Glass bay?

Cross-int. 90. Did not you pass several days with Mr. Archbold in October, 1863, on the occasion of the meeting at Glass bay of the stockholders of the Glass Bay Mining Company?

Ans. Yes, to 89; I don't recollect, to 90.

Cross-int. 91. Did not you also meet Mr. Archbold in Boston in November, 1863?

Ans. I think it likely; if he was there I met him.

Cross-int. 92. Did not you again meet Mr. Archbold in Boston in January and February, 1864? Did not he remain [in] Boston nearly a whole month at that time, and did you not have an interview with him nearly every day during his said stay in Boston?

Ans. I think I did; I can't say how long; I did, probably.

Cross-int. 93. Were not you in Mr. Archbold's company during your visit to Glass Bay in July, 1864, in attendance upon the meetings of said company?

Ans. Yes.

Cross-int. 94. Did not you also meet Mr. Archbold on several occasions within said period, at Halifax and at Sydney?

Ans. I propably did.

Cross-int. 95. Did not you pass considerable time at Glass bay while Mr. Archbold was also there, during said period, besides on the particular occasions or dates mentioned in the preceding interrogatories?

Ans. I presume I did.

Cross-int. 96. Did you ever, during said whole period of two years, on any of these occasions when you were with Mr. Archbold, make any claim upon him, or assert that he had not fully paid your commission?

Ans. I don't think I did; not until after the trouble about the back leases were settled.

Cross-int. 97. Did you ever allude to said payment and transaction

of September, 1862, during this whole period of two years, when in Mr. Archbold's presence?

Ans. I don't think I did.

55 Cross-int. 98. Had you read or heard read any of the foregoing direct and cross-interrogatories at any time before the same were read to you upon your examination by the magistrate, for the purpose of taking down your answers thereto?

Ans. I never did.

Cross-int. 99. Have you seen or had any copies of any of the said interrogatories? If yea, when and how did you receive them?

Ans. I have not.

STEPHEN H. HEAD.

A.—1.

GLACE BAY, *July 1st*, 1862.

Mr. S. H. Head has worked at Gloce Bay from March 5th to June 18th, ninety-five days, at $5 00		$475 00
Deduct paid by Mr. Archbold	$62 85	
" " W. P. Parrott	23 93	
		86 78
		$368 22

July 1st, 1862, Wm. P. Parrott, Sydney, July 1st, 1862.
Rec'd payment,

S. H. HEAD.

B.

BOSTON, *August 20th*, 1861.

E. P. Archbold, esq.:

DEAR SIR: Mr. Parrott has written to you by this steamer about an arrangement for getting up a company for your coal mines.

I hope a satisfactory arrangement can be made as I have spent much time in bringing the thing about. Please write to me
56 when you reply to his letter as to whether or not you will be willing to proceed in the matter as we arranged when you were here in Boston.

Your ob'd't serv't,

S. H. HEAD.

Address: Stephen H. Head, care of Wm. P. Parrott, Boston.

C.

P. steamer via Halifax:

SYDNEY, *August 31st*, 1861.

Stephen F. Head, esqr., Boston:

DEAR SIR: Your letter of the 20th inst. with one from Mr. Parrott, of the same date I duly received.

I have written to Mr. Parrott respecting the terms on which I

would be willing to have a company formed for the full development of the Glace Bay Coal Fields.

On my return from Boston parties in Halifax wished me to offer the place on somewhat similar terms to a company to be formed there, but I have since done nothing in the matter as I determined to continue my own small working which I find is more than doubling itself each year, and next year I am in hopes, by means of a small breakwater to do a much larger business, yet, having once made you the offer I shall not retract. I wrote my terms to Mr. Parrott, the same as you and I determined on when in Boston, 50 per cent. to be retained by me, out of which 50 per cent. you and the parties promoting the scheme are to get 15 per cent. leaving me 35 per cent. as my share, the company to furnish everything requisite for the work and to give me the agency here. When the parties Mr. Parrott alludes to arrive here we can more readily come to conclusions as to cost and requisites than by writing. Hoping you are quite well, I am yours very truly,

EDWARD P. ARCHBOLD.

57 D.

Rec'd of J. H. Converse, for services rend. to Glass Bay Mining Company, ninty dollars; services rend. during October and November, 1862.

S. H. HEAD.

Boston, Sept. 15, '63.

United States of America, district of Massachusetts, circuit court of the United States, in equity.

STEPHEN H. HEAD
vs.
EDWARD P. ARCHBOLD.

Be it remembered, that on the fourth day of December, A. D. 1865, at Boston, in said district, before me, Charles W. Tuttle, a commissioner appointed by said circuit court, in and for said district, to take affidavits and bail in civil causes depending in the courts of the United States, under the acts of Congress in such case made and provided, and examiner appointed by said circuit court under the amendment made by the Supreme Court of the United States to the sixty-seventh rule in equity, personally appeared C. L. Woodbury and M. E. Ingalls, esquires, counsel for the complainant, and H. W. Paine and H. W. Muzzey, esquires, counsel for the respondent; and a copy of the bill and answer in said cause was then and there produced and furnished me, and by agreement of parties

58 I commenced taking the testimony of the witnesses in said cause, and the said counsel for the respective parties having so requested, I ordered the examination of witnesses in said cause to be by question and answer; and the taking of the testimony by me in said cause was commenced on said fourth day of December, by

agreement of the respective counsel in said cause, and continued on divers days agreed upon by the respective counsel in said cause, and fixed by me between said fourth day of December and the thirty-first day of March, A. D. 1866, and on the last named day it was agreed before me by the respective counsel in said cause that the evidence on both sides be then closed, and the same was closed accordingly. And the complainant in said cause produced before me as witnesses in his behalf Frederick H. Odiorne, William P. Parrott, George Hughes, and Albert Smith, and the respondent produced before me as witnesses in his behalf Gardner G. Hubbard, James W. Emery, Edward P. Archbold, Joseph H. Converse, and Estes Howe, and each of the aforenamed witnesses in said cause, before giving his testimony, herein contained, before me, was by me duly and carefully cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause; and the examination in said cause took place before me in the presence of the respective counsel in said cause, and each of the depositions given before me was by me taken down in writing in the presence of the respective counsel in said cause, and in the presence of the deponent giving the same; and after the same had been completed, and so reduced to writing by me, was by me carefully read over to the witness giving the deposition, and was then signed by the witness in my presence and in the presence of the respective counsel in said cause, and each of the witnesses was subject to cross-examination and re-examination in the mode used in the common law courts at the time of the adoption of said amendment to said rule. Any question objected to by either party, or the counsel of either party, is noted by me on the said deposition, and all agreements of parties made before me during the examination are also likewise recorded by me in the following record. And all the depositions and exhibits, and all the original evidence introduced before me in said cause, are transmitted by me to the clerk of the court in which this cause is pending, to be there filed of record in the mode referred to in said amendment to said rule.

59 Witness my hand and official seal, at said Boston, this thirty-first day of March, in the year of our Lord one thousand eight hundred and sixty-six.

CHARLES W. TUTTLE,
Commissioner and Examiner of the Circuit Court of the United States for the District of Massachusetts.

Deposition of Frederick H. Odiorne.

MONDAY, *Dec.* 4, 1865.

Int. 1. Please state your name, age, residence, and occupation.

Ans. My name is Frederick H. Odiorne; age, thirty-five years; reside at Malden, Massachusetts; I am a merchant.

Int. 2. Are you or not acquainted with S. H. Head, the complainant in the above entitled case; if so, how long have you been acquainted with him?

Ans. I am acquainted with him, and have been for four or five years.

Int. 3. Are you or not acquainted with Edward P. Archbold, the defendant in this case; if so, how long have you been acquainted with him?

Ans. I have been personally acquainted with him four years, and by correspondence two years longer.

Int. 4. Did you, prior to 1862, have any business relations with the defendant in this case; if so, what was the nature of those relations?

(Objected to as immaterial.)

Ans. I received assignments of coal by the cargo from Mr. Archbold, which I sold on commission on his account, also made purchases of merchandise in the same way.

Int. 5. Did you or not, in 1861, have at your office samples of coal received by you from him?

(Objected to as immaterial.)

Ans. I did.

60 Int. 6. From what mine or mines was this coal taken, if you know?

(Objected to as immaterial.)

Ans. It was sent to me, as a sample, from Little Glace Bay Mine, or taken from cargoes sent to me from that mine by E. P. Archbold.

Int. 7. Do you know who was the owner of the said mine at that time?

(Objected to as immaterial.)

Ans. I understood it to be E. P. Archbold. I don't know of my own knowledge.

Int. 8. State whether or not S. H. Head, complainant in this case, ever called at your office and examined said samples early in 1861 to your knowledge.

(Objected to as immaterial.)

Ans. He did.

Int. 9. Did the complainant in this case ever obtain from you coal taken from said mines to test or make experiments with?

(Objected to as immaterial; also as the question may call for a statement from the witness as to anything Head may have told him as to the use Head wished to make of coal.)

Ans. I delivered to Mr. Head a few tons of coal for the purpose of testing its quality for use in locomotives.

Int. 10. Did you or not early in 1861 request him to take coal procured from Little Glace Bay Mine and test its qualities and properties for use in locomotives?

(Objected to as incompetent and immaterial.)

Ans. I did.

Int. 11. Do you know whether he did so test it or not?

Objected to as immaterial.)

Ans. Not of my own knowledge, but I have every reason to believe that he did.

Int. 12. Did or not the defendant in this case, prior to Nov. 1861,

ever state to you that he was desirous of improving his mines at Little Glace Bay and further developing the same?

(Objected to as immaterial.)

Ans. He did.

Int. 13. Did he ever so state to you prior to May, 1861?

(Objected to as immaterial.)

Ans. He did by correspondence.

61 (Answer objected to as giving contents of a written paper.)

Int. 14. Did you or not ever learn from the defendant, prior to May, 1861, that he was desirous of obtaining a loan or assistance in some way to enable him to improve and develop his mining property in Little Glace Bay?

(Objected to as incompetent and immaterial.)

Ans. I never saw Mr. Archbold previous to May, 1861. He wrote me on the subject several times, however, soliciting my assistance in obtaining capitalists to develop the mine.

(All the above answer after "1861," is objected to as giving the contents of a written paper.)

Int. 15. Have you any of the correspondence received by you from the defendant in this case, and bearing date prior to May, 1861, which has reference to Mr. Archbold's desire to obtain assistance in developing his mine?

(Objected to as incompetent, immaterial, and for form.)

Ans. I have, sir.

Int. 16. Did you or not, prior to May, 1861, receive any communications in writing from the defendant with reference to developing and improving his mining property in said Glace Bay?

(Objected to as to form, and as immaterial.)

Ans. I did.

Int. 17. Will you produce to the commissioner any communications in writing from the defendant received by you prior to May, 1861, and annex the same to your deposition?

(Objected to as to form, and as immaterial.)

Ans. I will. They are dated Aug. 29, 1860, marked A, C. W. T., U. S. com.; Sept. 13, 1860, marked B, C. W. T., U. S. com.; Sept. 27, 1860, marked C, C. W. T., U. S. com.; Oct. 13, 1860, marked D, C. W. T., U. S. com.; Oct. 26, 1860, marked E, C. W. T., U. S. com.; Dec. 11, 1860, marked F, C. W. T., U. S. com.; Jan. 10, 1861, marked G, C. W. T., U. S. com.; Feb. 23, 1861, marked H, C. W. T., U. S. com.; April 9, 1861, marked I, C. W. T., U. S. com.

(Counsel for defendant objects to all the above letters as being irrelevant and incompetent.)

Int. 18. Did you ever receive any communications in writing

62 from the defendant, in the months of July, August, September, October, and November, 1861?

(Objected to as immaterial.)

Ans. I did.

Int. 19. Will you produce the same to the commissioner, and annex them to your deposition?

(Objected to the production of the letters, and to their being annexed to the deposition.)

Ans. I will. They are dated July 6, 1861, marked J, C. W. T., U. S. com.; Aug. 31, 1861, marked K, C. W. T., U. S. com.; Sept. 13, 1861, marked L, C. W. T., U. S. com.; Sept. 21, 1861, marked M, C. W. T., U. S. com.; Oct. 1, 1861, marked N, C. W. T., U. S. com.

Int. 20. Will you examine the paper now shown you, and state to the commissioner if said paper was ever in your possession, and from whom you received it, and in what manner?

Ans. I have examined the paper, which is in the handwritng of Mr. E. P. Archbold. I received it from him enclosed in a letter dated Aug. 31, 1861, which letter is marked K, C. W. T., U. S. com.

Int. 21. Will you annex the same to your deposition?

(Objected to as irrelevant and incompetent.)

Ans. I will; it is marked O, C. W. T., U. S. com.; and dated April 21, 1861.

Int. 22. Did you or not ever receive from the defendant in this case any plan of his mining property at Little Glace Bay, or any written description of the same?

(Objected to as to form and being immaterial.)

Ans. I received two plans and an engineer's report, enclosed together in one letter, giving a description of the bay and the property contiguous thereto.

(That part of witness' answer that purports to give the contents of a writing objected to.)

give the contents of a writing.

Adjourned to Friday at 10 a. m.

63 FRIDAY, *Dec.* 8.

Int. 23. State what use, if any, you made of the plan or plans referred to in your last answer.

(Objected to as irrelevant.)

Ans. I exhibited them to several parties, having in view the obtaining their interest in developing the mine.

(All the above answer, after the word "parties," objected to as not responsive and as incompetent.)

Int. 24. State for what purpose, if any, you exhibited said plans to these parties.

(Objected to as irrelevant.)

Ans. For the purpose of obtaining funds for developing the mine.

Int. 25. State whether or not at the defendant's solicitation, you endeavored to obtain a loan to assist him in developing his property at Little Glace Bay, or attempted to interest capitalists in such enterprise prior to July, 1861.

(Objected to as irrelevant.)

Ans. I attempted to get capitalists to take an interest in developing the mine, and I introduced Mr. Archbold to several parties for that purpose.

Int. 26. When and where did you first meet the defendant in this case?

Ans. At my office, in May or June, 1861.

Int. 27. State whether or not Mr. Archbold at that time stated to you for what purpose; if any, he had come to Boston. If so, what was that purpose?

(Objected to as irrelevant.)

Ans. He stated that he had come here to get some of our good people to take an interest in his property, and particularly Mr. William P. Parrott.

Int. 28. State whether or not you introduced him to any parties or party in Boston? If yea, when, where, and to whom?

(Objected to as irrelevant.)

Ans. I introduced him to Mr. George Hughes, Mr. James Davis, Mr. John H. Reed, Mr. B. T. Reed. I don't recollect any others.

64 Int. 29. Please state what, if anything, led you to introduce Mr. Archbold to Mr. George Hughes?

(Objected to as irrelevant.)

Ans. Mr. Archbold stated to me that the Hon. T. D. Archibald, of Sydney, handed to him a letter from Mr. George Hughes, addressed to Mr. Archibald, making inquiries in reference to Glace Bay coal, the quality, quantity produced, price, etc.; also asking at what price four thousand tons could be delivered for in Boston, stating further, that the inquiry came from William P. Parrott, and that the coal would be required for locomotive purposes. I therefore introduced Mr. Archbold to Mr. George Hughes, that Mr. Archbold might obtain an introduction to Mr. Parrott from Mr. Hughes.

Int. 30. State for what purpose you introduced Mr. Archbold to Mr. Davis and the Messrs. Reed, as mentioned by you in your answer to interrogatory twenty-eight.

(Objected to as irrelevant.)

Ans. For the purpose of getting them to take an interest in developing his property.

(Answer objected to as incompetant.)

Int. 31. At whose request, if any, did you so introduce Mr. Archbold?

(Objected to as irrelevant.)

Ans. At Mr. Archbold's request.

Int. 32. Whether or not you ever introduced the complainant, Mr. Head to Mr. Archbold? If so, when and where?

Ans. I think I did, at my office, in May or June, 1861; but I can't swear positively.

Int. 33. State whether or not there were any circumstances or incidents connected with said introduction, which enabled you to remember the same; if so, what were they?

(Objected to as incompetent, irrelevant, and because the witness has already stated that he has no positive memory of having ever given the introduction inquired about.)

Ans. I introduced Mr. Archbold to a gentleman in my office, in May or June, 1861, with whom he had some conversation respecting his mine and the character of the coal. I remember distinctly that

on rising from his chair to shake hands with the gentleman,
65 Mr. Archbold's gold vest chain caught on the key of my desk,
in front of him, causing some damage to the chain, and some remarks from me in consequence.

Int. 34. Are you or not acquainted with the seasons or proper time for mining coal at Glace Bay? If yea, state about when those seasons commence and when they close.

(Objected to as irrelevant.)

Ans. I am familiar with the seasons for mining coal at Glace Bay; for two or three years after the opening of the mine, I understand that mining was carried on from April till November. At present, I understand the mining to be continued throughout the whole year.

(All of the above answer objected to as being based on hearsay, and otherwise incompetent.)

Cross-interrogatories proposed by H. W. Muzzey, esq.:

Cross-int. 1. You were formerly, were you not, employed by Mr. Archbold as his selling agent in Boston, and he made his consignments of coal produced from his mine, for the markets of Boston and New York, to you; did he not?

Ans. I was his selling agent, and all his consignments were made to me previous to the formation of the Glace Bay Mining Company.

Cross-int. 2. After that company was formed did not the agency for the sale of the coal raised from these mines pass out of your hands, and was not the agency transferred to Messrs. J. P. Melledge & Co.?

Ans. The sale of the coal as agent for Mr. Archbold ceased. I have no knowledge of any transfer of the agency. I continued to sell Glace Bay coal from these mines for two or three years after the formation of the Glace Bay Mining Company.

Cross-int. 3. Were you for two or three years the selling agent in Boston, of the Glace Bay Mining Company?

Ans. I was not.

Cross-int. 4. Were you such agent for the company at any time?

Ans. I never sold any coal as agent for the company, although I was authorized to do so by Mr. Converse, the treasurer, and Mr. Parrott, the engineer, in the year 1863.

Cross-int. 5. How long have you known William P. Parrott?

Ans. I first made his acquaintance in June, 1861.

66 Cross-int. 6. Were you then acquainted with Mr. Head, the complainant?

Ans. I was.

Cross-int. 7. How long had you known him?

Ans. I think about four months.

Cross-int. 8. When Mr. Archbold spoke to you of the letter which he had received from Thomas D. Archibald, did he not show you the letter to which he referred?

Ans. He did not.

Cross-int. 9. Will you positively swear that you ever saw the complainant and defendant in company with each other?

Ans. I have seen them a great many times.

Cross-int. 10. When first?

Ans. I cannot state positively; but I think at my office, at the time I introduced Mr. Archbold to a gentleman as referred to in my direct examination.

Cross-int. 11. Will you state the time and place at which you have any certain recollection of first seeing Mr. Head and Mr. Archbold in company with each other?

Ans. I can't state the time; but it occurred at my office in May or June, 1861; either at the time of the introduction referred to or subsequent to that time.

Cross-int. 12. State, if you are able, the time and place when you first remember to have certainly seen Mr. Head and Mr. Archbold togother?

Ans. I can't add anything to my testimony on this point already given.

Cross-int. 13. If Mr. Archbold had received on or about the middle of July, 1861, an order for five thousand tons of coal to be raised from his mine and shipped to Boston, state, if you are able, from your knowledge, within what time thereafter it would have been possible for him to have filled that order, taking into account such facilities for mining and shipping the coal as he then had at Glace Bay, and also his other business engagements?

(Objected to; first, it calls for a matter of opinion; second, not having shown that the witness was acquainted with Mr. Archbold's facility for mining; third, not having shown that witness knew Mr. Archbold had any other business engagements.)

67 Ans. I think it might have been filled in two months or less. On reference to letter dated July 6, 1861, marked J, C. W. T., U. S. com., I find he shipped to Boston about fifteen hundred tons of coal in less than a month.

Cross int. 14. From your knowledge of Mr. Archbold's mining business, acquired in your capacity as agent for him in Boston, please state whether or not a single order for five thousand tons was not an extraordinary order, as to quantity, for him to receive from this market?

(Objected to on the ground that defendant has not shown by the witness that he ever received such an order, as calling for witness' opinion on a supposed case.)

Ans. I never received so large an order for coal while I had his agency, the coal not being much known in this market.

Cross-int. 15. Please examine the letter of Mr. Archbold to yourself, dated Oct. 1, 1861, and marked N, and state to whom the expression in the last paragraph therein, "your friend," refers.

Ans. To my recollection I think it refers to James Davis.

Cross-int. 16. At the time when you received that letter, and for a month or two previous to its date, were you not aware that negotiations were pending between Mr. Archbold and the other parties who subsequently made a contract with him for the purchase of his mine?

Ans. I did know it at the time I received this letter and for a short time previous.

Cross-int. 17. Were you or not interested in, or did you or not represent one or more persons who were interested in another project for the purchase or improvement of Mr. Archbold's mining property at this time?

Ans. I had no interest farther than was stated already in my testimony in relation to Messrs. Davis and the Reeds.

Cross-int. 18. Did Mr. Davis and the Messrs. Reed, about this time, entertain the idea of becoming interested in Mr. Archbold's said property, and were you in their confidence or employment in the matter?

Ans. They did, and I was in their confidence.

Cross-int. 19. This rival scheme failed of success, did it not?

Ans. The negotiations, on my part, with Messrs. Davis and the Reeds, were being continued at the time of the formation of the Glace Bay Mining Company, and were broken off by Mr. Archbold's
68 advice that he had closed the matter with other parties, forming the present Glace Bay Mining Company.

Cross-int. 20. Was not the failure of the Davis and Reed negotiations a personal disappointment to you, and was it not the occasion of unpleasant feelings, on your part, towards Mr. Archbold?

Ans. It was somewhat a disappointment; but gave rise to no unpleasant feelings whatever on my own part, and I have no reason to believe that it did on the part of Mr. Archbold.

Cross-int. 21. On what terms are you with Mr. Archbold at present?

Ans. I know of nothing having occurred between us directly causing any change of feeling between Mr. Archbold and myself.

Cross-int. 22. Has anything happened indirectly to produce such change?

Ans. Yes, something has occurred.

Cross-int. 23. Were you ever at Mr. Archbold's mine in Glace Bay; and if so, when?

Ans. No, sir.

F. H. ODIORNE.

Deposition of William P. Parrott.

TUESDAY, *Dec.* 5, 1865.

Int. 1. Please state your name, age, residence, and occupation.

Ans. My name is William P. Parrott; age, fifty-five years; reside at Boston; I am a civil engineer.

Int. 2. State whether or not you are acquainted with Stephen H. Head, the complainant in this case. If yea, how long have you been acquainted with him?

Ans. I am acquainted with him, and have been, I think, for about fifteen years.

Int. 3. State whether or not, early in 1861, you requested Mr. George Hughes, of Boston, to write to his correspondent in Sydney with reference to procuring coal. If yea, at whose solicita-
69 tion, if any one, did you make such request? State fully what circumstances led to the same.

Ans. I did so request Mr. Hughes, and at the solicitation of Mr. S. H. Head. In the spring of 1861, I was engaged on Long wharf. Mr. Head came to me there, and conversed with me in regard to taking a contract for coal for the navy; and, in consequence of that conversation, and his having seen and tried the Glace Bay coal, I requested Mr. Hughes to write for further information, knowing that he had correspondence and business relations with Sydney.

Int. 4. Are you, or not, acquainted with E. P. Archbold, the defendant in this case? If so, state how long you have been acquainted with him; when and where did you first meet him, if at all?

Ans. I am acquainted with Mr. E. P. Archbold. I have been acquainted with him since the middle or last of June, 1861. I first met him in Boston at that time.

Int. 5. State what occurred, if anything, between you and Mr. Archbold at that time.

Ans. I saw very little of Mr. Archbold at that time. I was then very much engaged, leaving my home early in the morning and returning late at night, scarcely being absent an hour from my work. I had several short interviews with Mr. Archbold, and he showed me certain plans for making a harbor in Glace Bay—plans of the coast and premises—where a harbor could be made. The conversations we had were short, and upon that subject; I believe so altogether. I gave the matter but little consideration at that time, owing to other occupations.

Int. 6. State whether, or not, during this time Mr. Archbold was in Boston anything passed between you and him with reference to forming a company, or obtaining capital for improving and developing his (Archbold's) mining property in Little Glace bay.

Ans. I have no recollection of any conversation. There may have been such; but whether with him or others I can't say. My attention was directed to other matters, as I stated above.

Int. 7. State whether or not, during the stay of Mr. Archbold in Boston, you learned from him anything with reference to any contract between Mr. Head and Mr. Archbold.

70 Ans. I have no recollection of hearing anything from Mr. Archbold at that time in relation to such contract.

Int. 8. State whether or not in July, August, or September, 1861, you attempted to interest any capitalists of Boston in a project for improving or developing the Glace Bay mining property of Mr. Archbold. If yea, at whose solicitation, if any, did you make such an attempt? Who were the parties, and what was the result of such an attempt?

Ans. In August of 1861, I did so solicit certain capitalists, at the solicitation of Mr. S. H. Head. The result was, that certain parties went with me to Cape Breton, examined the property and concluded to take hold of it; and it resulted finally in a contract between Mr. E. P. Archbold, Estes Howe, James Emery, G. G. Hubbard, and J. H. Converse, and myself.

Int. 9. State whether or not, previous to your going to Cape

Breton with these parties, you communicated in writing with Mr. Archbold?

Ans. I wrote to Mr. Archbold on the 20th day of August, 1861.

Int. 10. Will you examine the paper now shown you, marked "O, C. W. T., U. S. com.," and state whether or not it is a true copy of the letter sent by you to E. P. Archbold, and referred to by you in your last answer?

Ans. I have examined the paper. The date is incorrect; it should be August 20, 1861, instead of April 20, 1861. In every other respect it is a true copy.

Int. 11. State whether or not you received any reply from Mr. Archbold to this communication of yours referred to in your last answer?

Ans. I did receive a reply by the next steamer.

Int. 12. Have [you] that reply with you now?

Ans. I have not.

Int. 13. Where is the same, and is it in your possession?

Ans. It is not in my files; it may be in my other papers, mislaid.

Int. 14. Will you examine the paper now shown you and state whether it is or not a copy of Mr. Archbold's reply to your communication to him of Aug. 20, 1861.

Ans. I have examined the letter, and to the best of my recollection it is a copy of the answer received.

Int. 15. Will you annex it to your deposition?

71 Ans. I will, and it is marked "P, C. W. T., U. S. com.," and is dated Aug. 31, 1861.

Int. 16. State whether or not any other parties mentioned by you, in your answer to interrogatory eight, were acquainted personally with Mr. Archbold, previous to their visit to Cape Breton, if you know.

Ans. They were not acquainted with him, I introduced them to him.

Int. 17. State whether or not during your visit at Cape Breton, mentioned by you in your answer to interrogatory eight, anything was said to you by Mr. Archbold, with reference to any agreement or contract, between Archbold and Head?

Ans. There was; he stated that his contract with Mr. Head was limited to the first of October, but in consideration of the progress we were making, he would waive that; this was all.

Int. 18. Please state whether or not you took any interest or share in the enterprise mentioned by you in answer to interrogatory eight; if yea, what induced you to enter into the same?

Ans. I did. What induced me to enter into the same was, that I thought well of the project.

Int. 19. State whether or not Mr. Archbold afterwards came to Boston to complete said contract or enterprise.

Ans. Mr. Archbold came to Boston, I think, the next steamer after we returned to Boston.

Int. 20. State, if you know, by whom the negotiations between Mr. Archbold, at the time he came to Boston, referred to in your last answer, and the other parties, were carried on, if by any one.

Ans. The discussion of this contract was between Mr. Archbold on

one part, and all the other parties, for themselves, on the other part. Mr. Head was present at times; there was considerable difficulty in arranging the details of the contract; I believe I, myself, made most of the memoranda; and finally, after we had agreed upon the plan of organization, Mr. Gardner G. Hubbard took the final memoranda, and drew up the formal contract.

Int. 21. State, if you know, where the final agreement or contract was made.

Ans. It was at 39 State street, at the office of Messrs. Howe and Hubbard.

72 Int. 22. State what occurred, if anything, in your presence immediately after this, between Mr. Head and Archbold.

Ans. Mr. Archbold, Mr. Head, and myself left that office together. Mr. Archbold said, as we were going down stairs, you ought to be satisfied with fifteen per cent., as you have had a great deal less trouble than was anticipated. We went down stairs and across the street, up into my office, which was at 40 State street, and there there was further conversation upon the subject, Mr. Archbold still saying that he thought fifteen per cent. was sufficient, and Mr. Head insisting upon what he said was the original agreement—twenty per cent.

Int. 23. State what was done, if anything, that you know of by Mr. Head, the complainant in this case, in furtherance of the said enterprise, state fully as you can.

Ans. Mr. Archbold, under the contract, or agreements growing out of it, I am not certain which, was appointed our agent at Glace bay. Up to this time, and for some short time after, we were acting as an associatian, not yet as an incorporated company. Mr. Archbold was furnished by me with memoranda for timber and other necessaries essential for the prosecution of the work in the spring. He wrote from time to time, reporting the progress he was making. From those letters I had formed an opinion that our provision for materials, etc., at Glace bay, would be insufficient; by this I mean to say that he was not making the progress which was required. I felt that the whole value of the property depended upon its speedy development; I proposed and did go to Glace bay early in March, 1862. leaving Boston, I think, on the second day of March; Mr. Head volunteered to go with me, knowing my views in relation to the condition of things there. On my arrival at Glace bay, I found things worse than I had anticipated, immediate action was required for procuring the required timber, and for doing other work necessary for the prosecution of our business; there was far more work to be done than could have been done by one man; in this work I was aided by Mr. Head; he remained there assisting me until about the first of July.

(Counsel for respondent objects to all the foregoing answer, as not responsive to the interrogatory, and as being immaterial testimony.)

73 Int. 24. State, if you know, what inducement, if any, led to Mr. Head's accompanying you to Glace Bay and assisting you, as mentioned in your last answer.

(Objected to as incompetent, and as having been already answered by the witness.)

Ans. I know of none excepting his interest in the enterprise.

Int. 25. State what benefit or advantage resulted to said enterprise from the assistance rendered to you by Mr. Head, referred to in your answer to interrogatory twenty-three, in your opinion, as an engineer, and as a business man.

(Objected to as incompetent and as immaterial.)

Ans. The advantage gained, in my opinion, was the advancement of the work by at least one year; and in view of the subsequent changes in the finances of this country, it made a difference between a great success, and, at the best, a partial failure in the enterprise.

(All the foregoing answer objected to, which follows the word "year," as being incompetent and argumentative merely.)

Int. 26. State whether or not Mr. Head rendered any assistance to the enterprise after that time.

(Objected to as immaterial.)

Ans. Mr. Head came to Glace bay, where I then was, sometime in the month of October in the same year, and remained there, I think, till about the middle of December.

Int. 27. State what services, if any, were rendered by him, to your knowledge, during the time referred to in your last answer?

(Objected to as immaterial.)

Ans. During the whole of his stay there he was occupied in advancing the interests of the company; we were incorporated then.

Int. 28. State whether or not there was ever any understanding or agreement between you and Mr. Head as to your compensation for the assistance rendered to him in forming said company? If yea, was said agreement in writing?

Ans. There was an agreement between Mr. Head and myself, and that agreement was not in writing.

Int. 29. Please state the substance of the same, as nigh as you can recollect?

Ans. He was to divide equally with me, if I would aid him.

Int. 30. What was to be divided between you, if anything?

74 Ans. The amount of stock which he should receive from Mr. Archbold.

Int. 31. State whether anything ever passed between you and Mr. Archbold with reference to this contract between you and Head? If yea, state when and where it occurred, and what circumstances led to the same. State fully all matters connected with the same.

Ans. There was a conversation between Mr. Archbold and myself, early in July, 1862, at Glace bay. There had been a misunderstanding between Mr. Head and myself. I had no written agreement with Mr. Head. I asked Mr. Archbold if he would aid me to secure my interest; he replied that his contract was with Mr. Head, and he did not know me in the matter.

Int. 32. State whether or not any conversation in regard to the alleged contract between Head and Archbold ever occurred at your office in Boston, in your presence, subsequent to the time referred to by you in your last answer? If yea, state fully what occurred at the time inquired of.

Ans. There was a conversation between Mr. Head and Mr. Archbold in my office in Boston sometime in the month of September; I think it was September, 1864. It was in the summer of 1864, the month I can't recollect. They were talking about this matter of their agreement. Head said to Archbold, "I wanted twenty-five per cent.," or "I asked you for twenty-five per cent.," and you offered me fifteen, and we finally agreed on twenty." Mr. Archbold replied, "Yes, but we subsequently altered that agreement, and I have papers at Sidney or Cape Breton," I forget which place he said, "which will show it." Both of them were considerably excited, and I recommended to them to wait till we were all in Cape Breton, and the papers would show for themselves what the modification was.

Int. 33. State whether or not anything further occurred in your presence between Head and Archbold with reference to said agreement, subsequent to the time referred to by you in your last answer. If yea, state when and where it occurred, and what passed between them.

Ans. There was another conversation between them in my presence at Glace Bay, I think in the month of November, 1864. We were all there together. I think it was Mr. Head asked Archbold to let him see the papers, or where the papers were, that he referred
75 to in Boston. Mr. Archbold went into his room and brought out part of a sheet of brown paper on which were some figures. I think they were in his own handwriting, and I saw no other papers produced, and I left the room and the house.

Int. 34. State whether or not in September, 1862, Mr. Archbold, in your presence, delivered certain stock or shares in the Glace Bay Mining Company to Mr. Head. If yea, state fully where it took place, and what occurred at that time in your presence.

Ans. Mr. Archbold did deliver to Mr. Head certain shares of stock of the Glace Bay Mining Company, in my office, No. 39 State street. No receipts were delivered or asked for. There was some conversation, but I don't recollect what it was.

Int. 35. State whether or not, if you know, the full amount of stock subscribed for had been issued at that time to the members of said company.

(Objected to as an incompetent mode of proving the fact inquired about, and as being immaterial and irrelevant.)

Ans. The stock was issued to members of the company as fast as the amounts of their subscriptions were paid up and passed upon by the directors. The whole amount subscribed for had not been paid at that time.

(The whole answer objected to as incompetent.)

Int. 36. State whether or not you have any interest in this present suit between S. H. Head and E. P. Archbold now pending in the U. S. circuit court.

Ans. I have no interest in it whatever.

Int. 37. State whether or not you have ever released to S. H. Head any interest which you may have had under the agreement or con-

tract referred to by you in your answer to interrogatory twenty-eight.

(Objected to as incompetent.)

Ans. I have released any and all claim I may have.

Int. 38. State whether or not you ever had any interest in this present suit between S. H. Head and E. P. Archbold, or ever authorized the bringing of the same, or have ever agreed to contribute any portion of the expenses of the same.

Ans. I have not. [I tried all I could to prevent the bringing of the same, and to effect a settlement of the same without recourse
76 to law.] I have never agreed to pay any portion of the expenses of this suit.

(All that part of the last answer enclosed in brackets objected to as not responsive.

Adjourned to Friday, at 10 a. m.

Cross-interrogatories propounded by H. W. Muzzey, esq.:

FRIDAY, *Dec.* 8.

Cross-int. 1. What was the business of Mr. Head, the complainant, when you first became acquainted with him? Where was his business carried on, and where did he reside?

(Objected to as opening matters not inquired of in the direct examination.)

Ans. He was in the machine department of the Boston & Lowell railroad. His business was in different machine shops on the Lowell railroad. I believe he resided in Boston; I don't know exactly.

Cross-int. 2. Was he then in the employ of the Boston and Lowell railroad? and, if so, in what capacity, and how long did he continue to be employed in that capacity?

(Objected to as before.)

Ans. I presume he was in the employ of the railroad—he worked there; he had charge, specially, of the boilers of the locomotive, and work of that character. I can't say how long he continued.

Cross-int. 3. When did you next know anything of his occupation? What was it; and where was he employed therein?

(Objected to as before.)

Ans. I can't recollect through the course of fifteen years. I recollect that Mr. Head was for some years in New York. I have no personal knowledge of his occupation there. After that time, he was engaged with me in making experiments with coal on locomotive—that is to say, the substituting coal for wood.

77 Cross-int. 4. When did he begin to make these experiments with you? and did he, or not, make them under your advice and direction?

(Objected to as before.)

Ans. I think about the year 1856 or 1857. Partly under my advice and direction, and partly on his own motion.

Cross-int. 5. How long were these experiments continued by you and him in the manner mentioned?

(Objected to as before.)

Ans. I can't state exactly how long those experiments continued, at intervals for some years, until it resulted in an invention by Mr. Head, for which he had a patent in 1858, or thereabouts; afterwards he went on with the experiments without my advice.

Cross-int. 6. Was not Head, by trade, a boiler-maker? and did he, or not, work at his trade most of the time since your first acquaintance with him?

(Objected to as before.)

Ans. Mr. Head, since I have been acquainted with him, of my personal knowledge, worked only on the Lowell railroad, where he was the foreman of the men employed upon the boilers, and work of that kind, a business which he understood thoroughly; and I know of my own knowledge that he knows how boilers should be constructed, both theoretically and practically. I have never known him to work at the trade as a common or journeyman boiler-maker. He always had men under him when I have known him.

Cross-int. 7. Was the employer or the foreman of the men who worked under him?

(Objected to as before.)

Ans. In the ordinary current work the under-men would be paid by the road; when work was taken by the job, then he hired his own men, that is, he paid them.

Cross-int. 8. How long was Mr. Head in New York, and what was his occupation there, if you know?

(Objected to as before.)

Ans. I think some years—a year or two; his occupation I don't know of my own knowledge.

Cross-int. 9. When did you first learn that Mr. Head had a contract with Mr. Archbold in reference to the commissions he was to
78 receive from Mr. Archbold for services to be rendered, as stated in your direct examination?

Ans. I can't specify the exact time, but it must have been somewhere between the first of June and the 20th of August, 1861. I got this information from Mr. Head alone within this period.

Cross-int. 10. Did you learn this from Mr. Head before or after you began to solicit certain capitalists, as stated in your answer to the eighth direct interrogatory?

Ans. It was before.

Cross-int. 11. Did you apply to the particular gentleman named in your answer to the eighth direct interrogatory, at the solicitation of Mr. Head?

Ans. Mr. Head solicited me to help in getting up a company, but I don't know that Mr. Head was acquainted with these parties, and he did not solicit me to apply to these parties specially.

Cross-int. 12. Then was not your application to Messrs. Hubbard, Howe, Emery, and Converse an independent effort of your own in which Mr. Head gave you no assistance whatever?

Ans. Mr. Head was not with me, and I made the application alone to them.

Cross-int. 13. You say you wrote to Mr. Archbold on the 20th of

August, 1861. Please examine the letter now shown you, and state whether or not it is the original letter written by you to Mr. Archbold.

Ans. It is.

Cross-int. 14. Please compare the said original letter with the copy of the same annexed to you deposition, and marked "O, C. W. T., U. S. com.," and state whether or not the copy so annexed is a correct copy of your original letter.

Ans. The copy is not correct; first, in the date, which should be "August 20, 1861;" next, in the first paragraph, the word "fields" in the copy is "beds" in the original; in the fourth paragraph, the word "for," between the words "wish" and "information," is not in the original; in all other respects they are alike, and the copy is correct with those alterations made.

Cross-int. 15. At whose request did you write this letter to Mr. Archbold?

Ans. I presume at the request of Mr. Head, as the letter states.

79 Cross-int. 16. Did any one else request you to write it?

Ans. I don't recollect; I know that we had a conversation with these gentlemen, before referred to, to go down and look at the premises, and I think I took it upon myself to make the necessary arrangements, and I recollect I found it very difficult to find out how we could get down there.

Cross-int. 17. To whom do you refer in the phrase in the above answer, "we had a conversation with these gentlemen."

Ans. I don't know when I made that answer that I had any one in my mind but myself; it may be better to substitute "I" for "we" in my last answer, as I am not certain that any one else was with me at the time referred to.

Cross-int. 18. What share did you personally take in the enterprise referred to in the eighteenth direct interrogatory?

Ans. I took an equal share with the others; that is to say, one-fifth part. There were five of us, namely: Estes Howe, J. M. Emery, G. G. Hubbard, J. H. Converse, and myself.

Cross-int. 19. In your answer to the twentieth direct interrogatory you say that you made most of the memoranda of the contract. Did you not also carry on most of the negotiations between the gentlemen you have named on the one side, and Mr. Archbold on the other?

Ans. The negotiations were rather a settlement of details; and having made most of the memoranda, as stated, I think it likely I did most of the work.

Cross-int. 20. While the negotiations between the parties you have named on the one side, and Mr. Archbold on the other, were in progress, did not you in those negotiations represent the gentlemen named, and conduct for them most of the business with Mr. Archbold?

Ans. I don't know that I represented those gentlemen specially; my object was to make the best arrangement for all parties, and eventually succeeded in making a contract that was satisfactory to all parties.

Cross-int. 21. In the course of these negotiations did you not have

frequent interviews with Mr. Archbold regarding them, at which neither Mr. Hubbard, Dr. Howe, Mr. Emery, nor Mr. Converse were present, and in which you acted for them?

Ans. I had some interviews with Mr. Archbold when those men were not present. Mr. Archbold was very ignorant of every-
80 thing of this kind, and I had to make him understand the bearing of these details he was discussing; but I have no recollection of anything in the discussions which I had with Mr. Archbold, which were material, that the other parties were not afterwards informed of.

Cross-int. 22. Was there any difficulty in settling upon the amount of stock to be paid to Mr. Archbold by the associates?

(Objected to as before.)

Ans. My impression is that there was some difficulty at first.

Cross-int. 23. Did not they desire to obtain the controlling interest by having a majority of the shares in the company?

(Objected to as before.)

Ans. Yes.

Cross-int. 24. Did you or not make this desire on their part known to Mr. Archbold? And if so, with what result?

(Objected to as before.)

Ans. I don't recollect whether I said anything to Mr. Archbold on that subject or not. I knew under the contract they would have it, and we did have it.

Cross-int. 25. How did you know that the associates would have the controlling interest in the company through a majority of the shares?

(Objected to as before.)

Ans. Because, in the first place, they had one-half of the stock; and, in the next place, I knew Mr. Archbold had alienated part of his, and that we could get of that enough to control the stock.

Cross-int. 26. Do you not, in your last answer, allude to a period subsequent to the time while the negotiations that preceded the making of the contract were in progress?

(Objected to as before.)

Ans. I then referred to the time the company was formed.

Cross-int. 27. Before the contract was signed was there not difficulty in settling upon the amount of stock which Mr. Archbold should have, arising from the fact that the associates desired to hold a majority of the shares?

(Objected to as before.)

Ans. I don't recollect that there was. I know that there were difficulties in arranging, as before stated; but whether it had
81 reference to this matter before inquired of I am unable to say; but Mr. Archbold, in his letter of August 31, 1861, marked "P, C. W. T., U, S. com.," stated the proportion of the stock which he should have, precisely as finally agreed upon in the contract. My impression is, that that point was not disputed; but still I am not certain.

Cross-int. 28. Did you or not before the contract was signed, at

any time, say to Messrs. Hubbard, Converse, Howe, and Emery, or either of them, that you had applied to Mr. Archbold to consent that the associates should have the controlling interest in the proposed company, and that he would not consent thereto? Did you or not say this, in substance, to them or some one of them?

(Objected to as before.)

Ans. I have no recollection of having ever spoken to Mr. Archbold on the subject. There was no need to ask Mr. Archbold's consent, as under the contract we proposed to make we should have the control of the stock, in the manner we understood among ourselves; and I have no recollection of stating to the parties above-mentioned, or any of them, any such matter as is embraced in this interrogatory, or in any words that could have been understood as conveying that meaning.

Cross-int. 29. What was the "understanding," referred to in your last answer, by means of which the associates were to obtain a controlling interest in the proposed company, and was that "understanding" known to the associates?

(Objected to as before.)

Ans. One of the associates, I think Mr. Hubbard, stated that they would be willing to go into this undertaking, provided they could have the control of the stock. I replied I thought we could have the control of the stock; this was upon the basis of the associates having one-half of the stock, as they subsequently agreed. I don't know that there was any other understanding what grew out of this conversation, as I have stated; and the associates had the control of the stock on the organization of the company.

Cross-int. 30. Before the contract was signed was there ever any understanding or agreement, which was known to Messrs. Hubbard, Howe, Emery, and Converse, or either of them, by which the associates were to have more than one-half of the stock.

82 Ans. I don't recollect that there was; but they had my assurance that the associates would have the controlling share, and I presume that they placed confidence in that.

Cross-int. 31. Upon what was the assurance that you gave them based? and did you disclose to them, or either of them, what it rested upon?

Ans. It was based upon this: that if the associates had fifty per cent. of the stock, and I could control a portion of the stock which Mr. Archbold should give for organizing the company, we should have the controlling portion of the stock. I have no recollection of any conversation on this subject, except that above-stated with Mr. Hubbard; nor have I any recollection of any question asked by these gentlemen above referred to, or any of them, upon this subject, other than that mentioned.

Cross-int. 32. At the time of your conversation with Mr. Hubbard, above referred to, had you any agreement with any one, and, if so, with whom, by which you could control a portion of the stock which Mr. Archbold was to have; and, if so, what was that agreement and

with whom did it exist? And was Mr. Hubbard, or either of the other associates, knowing to the agreement, at that time?

Ans. I believe that I stated in my direct examination that I had an arrangement with Mr. Head for part of the stock, in case the company was organized; I cannot say, of my personal knowledge, whether these gentlemen knew it or not.

Cross-int. 33. Did you disclose to Mr. Hubbard, or either of the other associates, your agreement with Mr. Head, by which you were to receive one-half of the stock to be given to him by Mr. Archbold?

Ans. My agreement with Mr. Head was merely verbal and was contingent on the organization of a company. I did not disclose this to any of the parties.

Cross-int. 34. Did or not Mr. Hubbard, when you gave him the assurance that the associates would be able to have the controlling interest in the proposed company, inquire of you upon what you based your assurance; and if so, what reply, if any, did you make to his inquiry?

Ans. He made no inquiry, to my recollection. What he said was rather a remark than a question, that if they could have the control of the company, they would take hold of it; and I told him, in reply, that they could. That, I think, was the whole.

Cross-int. 35. Was anything more said upon this subject, by
83 either yourself or Mr. Hubbard; and if so, please state it, and give the entire conversation?

Ans. I have no recollection of any other conversation than I have stated.

Cross-int. 36. Was Mr. Head ever present at any interview with Messrs. Hubbard, Howe, Emery and Converse, or either of them, before the contract was signed? and when and where did he meet them first, to your knowledge?

Ans. Yes; he was in the office there with us all, at the time, I think, the contract was signed. I am not certain when and where he first met them, I can't call that to mind. My impression is, that on 18th of Sept., I think it was, when we went down to Cape Boston, he was at the steamer, at East Boston; but my recollection is imperfect upon that subject.

Cross-int. 37. Where was the contract signed?

Ans. I think it was in Mr. Hubbard's office, 39 State street.

Cross-int. 38. Are you certain that Mr. Head was present on that occasion?

Ans. I am not certain he was present at the signing of the contract; but at one of our meetings at that time, or immediately before, and after all the points had been agreed upon, he was present. How long he was present I can't say.

Cross-int. 39. On the occasion referred to in your last answer, did you see Mr. Head speak to either Messrs. Hubbard, Howe, Emery, or Converse, or hear him make any remark whatever to those gentlemen, individually or collectively?

Ans. I have no recollection of any such thing.

Cross-int. 40. When do you know of Mr. Head's first speaking to

those gentlemen, or either of them, at all, or of their addressing any remark to him. Where was it? And what was said?

Ans. I don't recollect.

Adjourned to Wednesday, Dec. 13, at 10 A. M.

84 Cross-examination of witness resumed:

WEDNESDAY, *Dec.* 13.

Cross-int. 41. Was it a part of the agreement between Mr. Head and Mr. Archbold, that the latter should be appointed the agent of the company at Glace Bay?

(Objected to, as it does not appear that witness was present when the agreement was made.)

Ans. Not to my knowledge.

Cross-int. 42. Will you please examine the paper now shown you, and state if it is one of the estimates made by you of the cost of the work therein represented, and is in your handwriting?

Ans. It is an estimate made by me, to the best of my recollection, from the plans furnished by Mr. Archbold, and on his representation of the depth of the water in the creek where it was proposed to form his harbor. I found afterwards that these representations were untrue, and that there was not that depth of water which was represented to be, and that there was more excavation to be done than was first contemplated. This is a memorandum rather than an estimate; it was not made on my own measurement.

Cross-ans. 43. Did you represent to the associates what, in your judgment, would be the entire cost of the work required by the contract with Mr. Archbold?

(Objected to, as inquiring into matter not inquired of in the direct examination, and not pertinent to the case.)

Ans. I do not recollect; but I do recollect that Mr. Emery and Mr. Howe, I think, and myself, went over the different items of the proposed expenditure, and the total amounted to about seventy-five thousand dollars. I have no doubt that in our going on with this business, when they have asked my opinion of the cost of any item in the work I have given them my opinion, or an estimate of the cost.

Cross-int. 44. Did you not, before the contract was finally signed, represent to the associates that in your judgment there would be a considerable profit to the associates on that contract if made by them, with Mr. Archbold?

85 (Objected to as before.)

Ans. I recollect making no representations. I do recollect that we discussed the matter among ourselves, and that we thought there might be some profit left. The derangement of the currency by the war, and disappointment in not finding the depths of water that we contemplated, showed the first year after we commenced our work, that there would be no profits. To the best of my recollection, the opinion of my associates as to profits, was more favorable than my own.

Cross-int. 45. Were not you and Messrs. Emery, Howe, Hubbard,

and Converse to share equally the gains and losses of the enterprise?

(Objected to as opening new matter and not pertinent to this case, and not competent on cross-examination.)

Ans. Our interest was in proportion to the stock subscribed for; that was the measure of our interest and the measure of our profits; I subscribed for one-fifth part. The contract shows the amount each was to subscribe.

Cross-int. 46. Did you propose to your said associates to go as engineer to Glace Bay in the winter of 1861 or 1862?

(Objected to as before.)

Ans. They proposed it to me; and to the best of my recollection, it was understood that I should go there when we made the contract.

Cross-int. 47. What compensation was you to receive as engineer?

(Objected to as before.)

Ans. I was to receive five hundred dollars a month and my expenses while absent from home; for all the work done at home, I received no other compensation.

Cross-int. 48. Were your associates aware of the fact that Mr. Head was to accompany you to Glace Bay? and if yea, when and how did they learn it?

Ans. I can't say that they were aware of it. I did not consider it necessary to notify them.

Cross-int. 49. Did you employ Mr. Head in this matter on your own account, or for your associates?

Ans. I employed him for neither one or the other, and at the time he left the United States nothing was said about compensation.

Cross-int. 50. Did you ever state to your said associates that Mr. Head was at work, or had been working for them, at the time
86 referred to in your answer to the twenty-third and twenty-fifth direct interrogatories? and if yea, did you also state to them or either of them what, in your opinion, was the value of Mr. Head's said services?

Ans. I think in July of 1862 or thereabouts we, the associates, were altogether at Glace Bay, and Mr. Head was there, and we had considerable conversation about the work and its progress; and the part which Mr. Head had taken in it, the particulars of which I can't recollect; but I do recollect that Mr. Head made a claim for some compensation, and that it was allowed, but about the particulars or about the amount paid I have no recollection, not having the papers or anything to refresh my recollection.

Cross-int. 51. Then whatever Mr. Head did at that time he claimed and received payment for, did he not?

Ans. He did, as he had before for other things he had done for the associates, purchasing machiney, etc.

Cross-int. 52. Will you please look at the writing now shown you, and say whether or not it is a copy of a memorandum made by you of work and services rendered by Mr. Head?

Ans. I can't say whether that is a copy or not.

Cross-int. 53. When Mr. Head was by you first introduced to your associates, did you not say to them that he was a skilful mechanic and had been employed in a boiler shop, and by Stillman, Allen & Co., but had had frequent quarrels with the workmen through his violent temper, but that he would be a good person to examine some articles the said parties thought of purchasing for the work at Glace Bay, and was not this interview had after the contract with Mr. Archbold had been made?

(Objected to as calling for new matter not pertinent on cross-examination.)

Ans. I don't recollect all the details of the conversation; at the time I recommended Mr. Head as a suitable person to purchase the machinery we required, it was after the contract was signed with Mr. Archbold, because I recollect that that contract was signed in November, that we had but very little time to get our machinery to Cape Breton before the close of navigation that year, and that it was essential, very essential, that it should be down before the close of navigation, because the ice lays upon the coast late in the spring, sometimes into the middle of May, and it was important for
87 our interests that we should have it to use in the spring before it was possible for a vessel to get on the coast. I recommended Mr. Head because I believed he would obtain that machinery better and quicker than any other man I knew. The result proved my judgment correct in that particular. The machinery was obtained of the best quality at a less price than I anticipated, and was shipped from Boston in season to reach Sidney that winter.

(Counsel for complainant objects to this answer as stating what was said when he recommended Mr. Head to the associates, whereas the question calls for what was said or occurred when he introduced Mr. Head to the associates.)

Cross-int. 54. Where did the interview, referred to by you in your answer to the last interrogatory take place, and what persons were present at it?

Ans. To the best of my recollection, it took place at 39 State street, Mr. Hubbard's office, but I cannot recollect who were present, as I have nothing by which I can recall these trivial details.

Cross-int. 55. Was Mr. Hubbard himself present?

Ans. I can't recollect.

Cross-int. 56. Was Mr. Head there?

Ans. My impression is that he was not there, but I am not certain.

Cross-int. 57. Can you now recollect when you first saw Mr. Head speak to either Messrs. Hubbard, Howe, Emery, or Converse, and where it was? If yea, please state.

Ans. I cannot recollect.

Cross-int. 58. Were either of those gentlemen acquainted with Mr. Head when you recommended him to them for the purpose stated in your answer to the fifty-third cross-interrogatory?

Ans. I can't say; they probably know better than I do about that.

Cross-int. 59. Up to that time had you ever spoken to them, or either of them, of Mr. Head in any way.

Ans. I don't recollect that I had.

Cross-int. 60. Do you know that they or either of them were, previous to that time, knowing to the existence of Mr. Head?

Ans. I don't know that they were. I have no personal knowledge of their knowledge in that particular.

Cross-int. 61. Did Mr. Head, to your knowledge, ever ren-
88 der any services to the associates in the prosecution of the improvements at Glace Bay, under the contract with Mr. Archbold, for which he did not claim and receive payment from them, or from the Glace Bay Mining Company?

Ans. In the purchase of the machinery he claimed and received compensation. For what he did at Glace Bay in furtherance of the interest of the parties, he received some compensation, as I stated in answer to the fiftieth cross-interrogatory; and I know of no other claim being made by him, or paid by the Glace Bay Company or the associates. I think there was also a small payment made in December, 1862, but what it was for, or how much, I can't tell; it was small, at any rate. If there was anything, the bills will show.

Cross-int. 62. For the work he did at Glace Bay, under your direction, did not you approve the account of his time rendered by him, and was he not paid the amount of his bill therefor?

Ans. I think I approved an account of the number of days he had been at Glace Bay, and fixed upon an amount of money representing that time. I can't state of my personal knowledge whether that was paid or not. I presume it was.

Cross-int. 63. Did Mr. Head ever say to you that it was not paid?

Ans. Not that I recollect of.

Cross-int. 64. When was the agreement with Mr. Head, referred to by you in your answers to the twenty-eighth and twenty-ninth direct interrogatories, made? Was it before or after the twentieth of August, 1861? that being the date of your letter to Mr. Archbold, a copy of which has been annexed to this deposition.

Ans. It was probably before the twentieth of August, 1861.

Cross-int. 65. Did not Mr. Head, in company with yourself, find other mines of coal and copper at or in the neighborhood of Glace Bay, while you and he were in the employ of the associates, you as engineer and he as your assistant, for the working of which mines other companies, in which you and he became interested, were formed?

(Objected to as inquiring for [matter] not opened on direct examination, and also as to transactions which took place after the contract [to] which the present suit has reference.)

Ans. No.

Adjourned to Monday, Dec. 18, at 10 a. m.

89 Monday, Dec. 18, adjourned to Jan. 5, 1866.

FRIDAY, *Jan.* 5.

Cross-int. 66. Did not Mr. Head and yourself jointly, or either of you, on your or his individual account, while you or he were em-

ployed, in the manner stated in the last interrogatory, find other mines of coal or copper at or in the neighborhood of Glace Bay, for the working of which mines other companies, in which you and he became interested, were formed?

(Objected to as incompetent.)

Ans. I answer, that my contract with the associates terminated on or about the first of Sept., 1862. I made a subsequent agreement, which terminated in the latter part of December, 1862, and during that time I was engaged in no interest other than those relating to Glace Bay Company; nor did I find any other mines of coal or copper, or anything else, during that period; although there was nothing in my contract that prevented my doing so if I saw fit.

Cross-int. 67. To what period of time do you refer in your answer to the last interrogatory?

Ans. From the second of March, 1862, to thirty-first of December, 1862.

Cross-int. 68. Did Mr. Head, in the year 1861, or thereafter, up to the time when he ceased to work, as you have heretofore stated, for the Glace Bay Mining Company, have any office or place of business in Boston or elsewhere? If yea, where was it?

Ans. I don't know that he had or that he had not.

Cross-int. 69. Did he not, at the time when the negotiations with Mr. Archbold, relating to his mine, begun, and for a long time subsequent thereto, make your office in Boston his head-quarters, and were not his letters, at and during that time addressed to your care?

Ans. Mr. Head was very frequently in my office; when he was in Boston he was at the Parker House; sometimes I have seen letters directed to him at 39 State street. I have always heard him tell those who wished to address him to direct to Parker House. I think there have been a few letters come to my care for him. I have
90 no box at the post office; my letters are all delivered at my house, and not at the office.

Cross-int. 70. Was your office, at 39 State street, the place to which the letters for Mr. Head came?

Ans. I have never seen anything there for Mr. Head except some printed notices. I have no recollection of any letter by mail; any mail letters left there.

Cross-int. 71. Where was your house situated during the spring, summer, and fall of 1861; and did not letters come to Mr. Head through the mail to your house during that period?

Ans. My house was at No. 20 Crescent Place; there might have been one or two letters come there for Mr. Head, not more.

Cross-int. 72. Where did Mr. Head reside during the month of August, 1861?

Ans. I don't know exactly, but when he was in Boston, he used to be at the Parker House.

Cross-int. 73. Was Mr. Head a resident of Boston during the month of August, 1861?

Ans. Well, he was here a good deal; but whether he considered himself a resident of Boston at that time, I don't know.

Cross-int. 74. State with which one of the associates you had your first conversation in regard to the purchasing Mr. Archbold's mine, and what was then said about it.

Ans. My impression is the first conversation was with them altogether. What that conversation was, except generally, I can't recollect.

Cross-int. 75. State all that you can remember of that conversation.

Ans. I can recollect nothing in detail in relation to it, having nothing to carry my recollection back to it. It was, in general, upon the subject of the mines and matters relating to engaging in the adventure, but in regard to the precise conversation I have no recollection. I recollect that it took place at the office of Messrs. Hubbard and others, at No. 39 State street; I recollect that either at that conversation or a subsequent one, it was understood or agreed that I was to write to Mr. Archbold for information in writing, in relation to the mines, and also that we should go to Cape Breton and examine the property before we engaged in the adventure, all of which was subsequently done.

91 Cross-int. 76. Did you so write to Mr. Archbold? and if so, please identify the letter which you so wrote.

Ans. I have already said that I wrote to Mr. Archbold, and I have already identified a copy of the letter so written, which is marked "O, C. W. T., U. S. com."

Cross-int. 77. Did you at the interview named in the sixteenth direct interrogatory, or at any subsequent interview, state to the associates, or either of them, how you first heard of this mine? if yea, state all you said on that point.

Ans. I can't recollect anything about it.

Cross-int. 78. How did you, in fact, first learn of this mine?

Ans. The first information I had of this mine as to its location, condition and circumstances, was from Mr. Archbold.

Cross-int. 79. Were you not aware that Mr. George Hughes had, in the name of his firm, written to Messrs. Thomas D. Archibald & Company, of Sydney, regarding this mine?

Ans. Certainly, I am aware that he wrote to Mr. Archibald in reference to Glace Bay coal; but in regard to the location of the mine, where it was, what it was, and how situated, I knew nothing, until I received information from Mr. Archbold. I knew the coal was in the market, had heard favorable reports concerning it, and that is all I knew of the mine at the time the letter was written to Mr. Archbold.

Cross-int. 80. Did you not, at the time Mr. Hughes's said letter was written, know that the coal referred to in your last answer came from a mine situated at Glace Bay?

Ans. I knew nothing about it, except that it had the name of Glace Bay coal. As I have already stated, that letter was written to get information for Mr. Head. I was otherwise engaged at that time, and took no interest in the matter.

Cross-int. 81. Was said George Hughes connected with you by marriage or otherwise?

Ans. Yes, my brother-in-law.

Cross-int. 82. Was his said letter written at your request or suggestion?

Ans. I requested him to write the letter.

Cross-int. 83. Did Mr. Hughes, at any time previous to the date of his said letter, reside in Nova Scotia?

92 Ans. No.

Cross-int. 84. Was not Mr. Hughes the only Boston partner of the firm of Atherton, Hughes & Co., at the time his said letter was written?

Ans. I don't know.

Cross-int. 85. Did you or not communicate to Mr. Head the result of the interview, referred to in your answer to the seventy-fifth cross-interrogatory; and, if yea, what did you say about it to him?

Ans. Undoubtedly I communicated that to Mr. Head. What I said to him I don't recollect.

Cross-int. 86. Did he after such communication by you to him write to Mr. Archbold?

Ans. I don't know whether he did or not.

Cross-int. 87. Please examine the letter now exhibited to you, and state whose is the handwriting of the same?

Ans. It looks like my handwriting; but it is Mr. Head's signature.

Cross-int. 88. Please annex the said letter to your deposition.

Ans. I will; it is marked "Q, C. W. T., U. S. com.," and is dated August 20, 1861.

Cross-int. 89. Was the said letter written at your suggestion, in consequence of your interview with Messrs. Hubbard and others, mentioned in your answer to the seventy-fifth cross-interrogatory?

Ans. The letter was evidently written in consequence of that conversation and arrangement; whether it was suggested by me or not I can't say. If it was, it was a matter of courtesy to Mr. Archbold.

Cross-int. 90. Was not this letter written and sent at the same time with your own letter to Mr. Archbold above referred to, and annexed, marked "O, C. W. T., U. S. com.?"

Ans. It bears the same date; but whether it was sent at the same time I don't know.

Cross-int. 91. Have you any serious doubt on this point?

Ans. I have the doubt of a thing not within my knowledge and recollection.

Cross-int. 92. Did Mr. Head receive a reply from Mr. Archbold to his said letter dated Aug. 20, 1861, and marked Q, C. W. T., U. S. com., and if yea, were the contents thereof made known to you?

(Objected to as opening new matter; second, calling for
93 evidence of a paper without producing the same; third, attempting to make the declarations of the defendant evidence for himself.)

Ans. I think that Mr. Head received that fall a letter from Mr. Archbold; but whether it was in answer to that letter I can't say.

Cross-int. 93. Did Mr. Head exhibit to you the letter by him received from Mr. Archbold, to which you refer in your last answer?

(Objected to as incompetent on cross-examination.)

Ans. It is probable that he did.

Cross-int. 94. Please examine the paper writing now exhibited to you and state whether or not you recognize it as a copy of a letter received by Mr. Head from Mr. Archbold.

(Objected to for the reason that defence has not shown that the same was ever in the possession of Mr. Head, or that he ever received such a letter, or that such a letter was ever written or sent by Mr. Archbold.)

Ans. I am unable to say whether this is a copy of a letter received by him or not.

Cross-int 95. Did or not, to your knowledge, Mr. Head receive from Mr. Archbold a reply to his said letter to Mr. Archbold at or about the time when you received the reply to your own letter, which is annexed to your deposition and marked "P, C. W. T., U. S. com.?"

(Objected to; the witness has previously been asked the same question by the defence.)

Ans. I don't know when Mr. Head received an answer, if any.

Cross-int. 96. Did not the associates, on your and their visit to Glace Bay, referred to in your answer to the seventy-fifth cross-interrogatory, object to the terms offered by Mr. Archbold, through you for the sale of his mine as not being sufficiently favorable, and were not you appointed to confer with Mr. Archbold for better terms, and if yea, did you see him for this purpose, and what report, if any, did you make to the associates?

Ans. When we went to Cape Breton we all went from Sidney to Glace Bay—I mean to say all the associates who made said visit. Mr. Emery was one; Dr. Howe, I think, went; Mr. Converse, also; but my impression is Mr. Hubbard did not go. There was one who did not go. Mr. Emery and myself made an estimate of the money it would take to make the improvements there. We all remained out there one night. The next day we all returned to Sidney. That
94 evening of our return we had a meeting together in regard to undertaking the enterprise. My impression is that at that interview Mr. Archbold's ideas of value were larger than we liked; but the result of that evening's conversation was that I should go the next day to Glace Bay and examine some points upon which we had doubts in relation to the practicability of making a harbor. The other associates remained at Sidney. I went to Glace Bay with Mr. Archbold. He was very anxious that the associates should take hold of the project. I made the examination and returned to Sidney that night, and reported favorably in relation to the practicability of making the harbor. My recollection is that we did nothing further at that time towards a negotiation with Mr. Archbold, but made an arrangement to meet him in Boston. I recollect of no report made to the associates other than the one above mentioned, which was verbal.

Cross-int. 97. Did you not then say to the associates that other parties in Nova Scotia were negotiating with Mr. Archbold, and would close a bargain with him if the associates did not, and that he (Archbold) only continued his negotiations with the associates because he felt in honor bound to do so, or words to this effect?

Ans. I have no recollection of stating anything of the kind to the associates. If I did state anything of the kind it could only have been the report of the conversation of Mr. Archbold with me. I had no other source of information.

Cross-int. 98. Did Mr. Archbold make to you the statements embraced in the preceding interrogatory?

Ans. I can't recollect. [I do recollect that within one year Mr. Archbold told me that at the time we went to Glace Bay together his heart was up in his mouth from fear that we should not take hold of the project.]

(Counsel for respondent objects to all the preceding answer embraced in the brackets.)

Cross-int. 99. Is Mr. F. H. Odiorne a relative or connection of yours?

Ans. Not that I am aware of.

Cross-int. 100. Did you not first learn of this Glace Bay coal and of Mr. Archbold's desire to dispose of his mine from Mr. Odiorne, his selling agent in Boston?

95 Ans. No. The first I knew of the Glace Bay coal, to the best of my recollection, was from Mr. Head. The first I knew of Mr. Archbold's desire to dispose of his mine was from Mr. Archbold himself, to the best of my recollection.

Cross-int. 101. When, where, and how did you first learn this from Mr. Archbold? If at a personal interview, state where and when it took place and all that was said.

Ans. I think the first time that I saw Mr. Archbold in relation to this matter was on Long Wharf, where I was then engaged. He had certain plans of the harbor, or proposed harbor, in the vicinity of Glace Bay, and he consulted with me in regard to the practicability of making the harbor. I don't recollect at that time that I had any conversation with Mr. Archbold about getting up a company. Undoubtedly something was said in that connection, because the expense would be too large for one individual prudently to undertake. My impression is that the first direct communication I had with Mr. Archbold on the subject of getting up a company was in my letter of the 20th of August to him. The conversation previously referred to related to engineering matters, the matter of getting up a company was merely incidental. I understood during Mr. Archbold's visit in Boston, in June, 1861, either from him or Mr. Head, that he was desirous of forming a company to work his mine, but the precise place and the time when I cannot recollect.

Cross-int. 102. Please examine the certificate of stock now exhibited to you and the transfers thereon, and state in whose handwriting the words and figures of the transfers thereon are?

(Objected to as incompetent on cross-examination.)

Ans. The memorandum of transfer is in my handwriting. The signature of Mr. Archbold, on the transfer, is in his own handwriting, I think.

Cross-int. 103. Will you annex the said certificates and transfer to this deposition?

(Objected to as incompetent on cross-examination and calling for a paper immaterial to the case.)

Ans. I will; and it is marked R, C. W. T., U. S. com.

Cross-int. 104. Were this certificate and the shares therein
96 mentioned, ever your property; and if yea, when and from whom did you receive them, and what consideration, if any, did you pay for the same?

Ans. I presume that they were the shares received in accordance with my agreement with Mr. Head, previously testified to. I think this certificate was handed to me by Mr. Head about the 16th of September, 1862. The consideration was my agreement with Mr. Head as before stated.

Cross-int. 105. Where did you receive said certificate and what persons were present at the time?

Ans. I think in my office in State street. Mr. Head and myself were present, and possibly Mr. Archbold.

Cross-int. 106. Will you examine the three other certificates of stock now exhibited to you and state whether you ever before this time saw the same; and if yea, where and when first, and in whose possession were they at that time?

Ans. I don't know that I ever saw them before.

Cross-int. 107. When you were negotiating with the associates for the compensation to be paid by them to you for going as engineer to Glace Bay, in the winter or early spring of 1862, did you not say to them, as a reason for asking so large a sum for your services, that you had never received any other profit or compensation in connection with the enterprise, or any compensation for your services in effecting the sale from Mr. Archbold to the associates?

Ans. I have no recollection of anything of the sort, nor was the compensation considered a large one by me, nor would I perform the same service for the same money again.

Cross-int. 108. Did you not say, while the subject of your compensation for said services was under consideration, to Messrs. Howe, Hubbard, Emery, and Converse, or to some one or more of them, that you had never received any commission or compensation for your services in effecting a sale of Mr. Archbold's mine? Did you not say this in substance?

Ans. I have no recollection that I said anything of the sort, nor do I recollect any conversation with them that would lead to any remark of the kind.

Cross-int. 109. After Mr. Head had become a stockholder in the Glace Bay Mining Company were you not asked by Messrs.
97 Hubbard, Emery, and Converse, or by some one or more of them, how Mr. Head had obtained his stock, and did you not reply by purchase?

(Objected to as opening matter not inquired of on the direct examination; second, as opening matter that occurred after the matter in issue had been completed; third, it is not shown that either complainant or respondent were present when the conversations occurred.)

Ans. I don't recollect of any conversations as referred to in this question. [If either of those gentlemen asked me an impertinent question they probably received an impertinent answer. I should have more probably referred them to Mr. Head himself.]

(Counsel for respondent objects to that part of the foregoing answer which is inclosed in brackets as irresponsive and impertinent.)

Cross-int. 110. Did you make the statement referred to in the preceding interrogatory, or any part of the same, to either of the gentlemen therein named, or ever have any conversation with them, or either of them, upon the subject of how Mr. Head obtained his stock of the Glace Bay Mining Company? If yea, state all that was said by yourself and the said gentlemen, or either of them, relating to that matter.

(Objected to for reason stated above, and also as incompetent, irrelevant, and immaterial.)

Ans. I have no recollection of any such conversation, nor any such statements as having been made by me. I don't think I said anything to them about Mr. Head's business.

Cross-int. 111. Do you mean positively to deny ever having made any such statement, or held such conversation?

(Same objection as to the two preceding questions; also, the same question having been asked before; also, objected to as impertinent.)

Ans. I mean to say that I have no recollection; but it is possible those gentlemen may have asked such questions as above referred to; but I have no recollection of it, neither the place nor circumstances under which the questions referred to were asked, if they ever were asked; nor did I consider myself bound to communicate the business of other persons to them.

Cross-int. 112. Do you recollect that you never did make any such statement as is referred to in the one hundred and ninth cross-interrogatory, and that no such question as is therein mentioned was ever addressed to you by the gentlemen therein named, or either of them?

98 (Objected to as before.)

Ans. I have no recollection whether it was or was not.

Cross-int. 113. Did you or not give any directions to Mr. Archbold, or request him to take out the certificate of stock referred to in your answer to the one hundred and fourth cross-interrogatory, in the manner or for the amount in which the said certificate is made out?

(Objected to as incompetent and immaterial.)

Ans. My recollection is not altogether clear on that; my impression is, that I requested Mr. Archbold or Mr. Head, one or both, to have the certificates taken out in such form that the stock then to be paid could be equally divided. My impression also is, that I had no ob-

jection to having my proportion of the amount then to be paid in one certificate.

Adjourned to 10 a. m. Saturday.

SATURDAY, *Jan.* 6, 1866, *at* 10 *a. m.*

Cross-examination resumed:

Cross-int. 114. When did Mr. Head first inform you that Mr. Archbold had promised to give him a commission for effecting a sale of Archbold's mining property? and state all that Mr. Head then said in communicating to you his contract with Mr. Archbold.

Ans. I think it was in the early part of July, 1861; and that he told me that Mr. Archbold wanted to get up a company, and that he had told Mr. Archbold that he would undertake it, or words to that effect, provided that he would pay him twenty per cent. I think that he stated to me also that he wanted twenty-five per cent. I ought to state, however, that I am not certain as to the time when this was told me, but to the best of my recollection, it was at that time. He wanted me to assist him, and I replied that I could do nothing about it until I had finished my existing engagements.

Cross-int. 115. When did Head agree to give you half of the commissions to be received from Mr. Archbold for this service?

Ans. I can't recollect the time.

99 Cross-int. 116. How long before your letter to Mr. Archbold, dated August 20, 1861, was it?

Ans. I can't recollect the date.

Cross-int. 117. Please state as nearly as you can.

Ans. It would be nothing but a guess, such statement as that. The agreement was a verbal one; we never had any written agreement.

Cross-int. 118. Did Mr. Head, to your knowledge, ever send to Mr. Archbold any other letter than the one which is in your handwriting, and dated Aug. 20, 1861, and marked "Q, C. W. T., U. S. com.?"

(Objected to as incompetent on cross-examination.)

Ans. Not to my knowledge; I will not be certain about it at all.

Cross-int. 119. Did not Mr. Hubbard request you to write to Mr. Archbold, to learn his proposition for selling an interest in his mine, and was not your letter to Mr. Archbold, dated Aug. 20, 1861, written in consequence of that request?

Ans. I have no recollection of any request made by Mr. Hubbard more than by any of the others. I have already answered in regard to this transaction, and I refer to that for further answer.

Cross-int. 120. When Mr. Head, in the early part of July, 1861, made the communication to you stated in your answer to the one hundred and fourteenth cross-interrogatory, did not he also state to you the terms upon which Mr. Archbold was willing to sell an interest in his mine? If yea, state fully all that Mr. Head said to you on that subject.

Ans. I don't recollect that Mr. Head said anything to me about

terms of sale; his conversation upon this matter was brief. I had no time to attend to it, or any other business, except that upon which I was then engaged.

Cross-int. 121. When did you first give your attention to this enterprise? State when it was in reference to the date of your letter of August twentieth, 1861.

Ans. Twentieth of August, 1861, and the letter was dated same day.

Cross-int. 122. Before you wrote on that day had you not had a conversation with Mr. Head about the terms upon which Mr. Archbold would be willing to sell?

Ans. I don't recollect; but I think not, because the terms
100 of sale were open when we commenced to make a contract with Mr. Archbold.

Cross-int. 123. Had you no general knowledge of the terms of Mr. Archbold's propositions, at the date of your said letter, as they stood at that time?

Ans. I might have had some general knowledge; but to the best of my recollection I had no knowledge as to the value of the property at that time; nor would I have engaged myself, or solicited others to be interested, or make any offer for the property until we had first made a personal examination of it.

Cross-int. 124. Did you not, before said letter was written, know what value Mr. Archbold himself placed upon the property, and upon what terms he was willing to dispose of an interest in it?

Ans. I might have had a vague information; but the very object of the letter was to obtain definite information from Mr. Archbold himself.

Cross-int. 125. Did you not have some information at that time upon the points mentioned in the last interrogatory? and if yea, from whom was that information derived?

Ans. It is possible I had information; but whether received from Mr. Head or Mr. Archbold I can't say. As I before stated, my conversation with them both was general—very general.

Cross-int. 126. Had you not, at that time, learned enough of Mr. Archbold's property, and his proposition to sell an interest in the same, to induce you to give your attention to the matter?

Ans. With the information received of Mr. Archbold, and my knowledge of the character of the coal, and general knowledge of the geology of Cape Breton, I had a sufficient inducement to give my attention to the project.

Cross-int. 127. Did not such knowledge as you had of Mr. Archbold's proposition of sale also have weight with you?

Ans. Certainly. We should not have gone to look at this mine unless we had the proposition to sell an interest in it.

Cross-int. 128. Were not you and Dr. Howe appointed to act as a committee on behalf of the associates to confer with Mr. Archbold and see if he would not sell on more favorable terms? And did you not, for that committee, have interviews with Mr. Archbold, both at Sidney and Boston, and then report to Dr. Howe and the

101 associates that Mr. Archbold would sell on no better terms than those first proposed by him?

Ans. Dr. Howe and myself were a committee. I have no recollection of any interviews with Mr. Archbold at Sidney, in that capacity. I had many interviews with Mr. Archbold at Boston on that subject. I did the best I could for the associates. I got the best terms I could from Mr. Archbold. I believe no better could have been obtained, and this I state from my subsequent knowledge and information, and reported the same to Dr. Howe and the other associates, and the contract was subsequently made on those terms, as I believe to the satisfaction of all concerned.

Cross-int. 129. Did you not, as such committe, report to Dr. Howe and the associates that you had conferred with Mr. Archbold, and that he was unwilling to offer them better terms than those contained in his original proposition?

Ans. I don't recollect either such report or the original proposition. If I reported as stated in the interrogatory, it was because Mr. Archbold so stated.

Cross-int. 130. Did Mr. Archbold state to you that he would not change his terms of sale?

Ans. I don't know what terms are referred to.

Cross-int. 131. How did you first learn, and when, the terms upon which Mr. Archbold was willing to dispose of an interest in his said property?

Ans. The first definite information was that received from Mr. Archbold, in our final interview upon that subject, in the early part of November, 1861. There had, of course, been previous conversations and interviews upon this subject, and different propositions and terms presented, as is generally common in making bargains; but I have no recollection of the details.

Cross-int. 132. When were you and Dr. Howe appointed as the committee to confer with Mr. Archbold, as mentioned in the one hundred and twenty-eighth cross-interrogatory?

Ans. I don't recollect of any former appointment; but Dr. Howe and myself acted as above described, and this was in time in November, 1861, at the time the contract was made between Mr. Archbold and the associates.

102 Cross-int. 133. Did you not so act at the special request of the associates?

Ans. I don't recollect. I presume I was requested to act.

Cross-int. 134. Requested by whom?

Ans. Well, I can't say. There were no other parties interested there but the associates; but whether I was asked by one or all I can't say.

Cross-int. 135. Were you not asked by one or all of them so to act?

Ans. I can answer no more fully than I have as above.

Cross-int. 136. What renders you unable to say whether or not you acted as such committee by request of one or more of the associates?

Ans. Because I cannot recollect every trivial occurrence of the transaction, and have no record or memorandum of this unimportant transaction.

Cross-int. 137. Did you regard the conferences with Mr. Archbold, held for the purpose of ascertaining and settling upon the terms of the sale of his property, as trivial and unimportant matters?

Ans. By no means, nor do I refer to them. What I do refer to, is my appointment as committee-man with Dr. Howe, whether that appointment was by formal vote, by a written request of the parties, or otherwise. The fact that I did act as a committee with Dr. Howe, I do consider important; but as to how the appointment was made I consider unimportant, as my action was concurred in by the assent of all the parties in interest.

Cross-int. 138. You were not asked whether you were appointed by formal vote or a written request, or in what manner. Will you please answer to the best of your recollection the point of inquiry; which is when, in point of time, were you requested to confer with Mr. Archbold, for the associates, upon the subject of the best terms upon which he would dispose of an interest in his property to them?

(Objected to as incompetent and immaterial.)

Ans. In point of time, I have already answered, to wit, in the early part of November, 1861, in answer to cross-interrogatory one hundred and thirty-one.

Cross-int. 139. How long before Mr. Archbold's proposition was finally agreed to, did you begin to act as such committee?

103 (Objected to as incompetent and immaterial.)

Ans. I think about a week before we came to a final conclusion of the matter.

Cross-int. 140. Before you begun to act as such committee had not Mr. Archbold made a proposition of the terms upon which he would be willing to dispose of an interest in his mine to the associates?

Ans. He had offered certain terms on which he would form a company in his letter of August 31, 1861, which letter is annexed to my deposition, and marked "P, C. W. T., U. S. com."

Cross-int. 141. Subsequent to this letter, and previous to the time when you begun to act as such committee, had Mr. Archbold made any change in, or addition to, his proposition as contained in the said letter; and if so, when was it made and in what did it consist?

Ans. I have no recollection of any change, or any negotiation in reference to such change, previous to the time I begun to act as such committee for the associates. There was, in the mean time, while at Sidney, a conversation in regard to the money part of the transaction, as before stated; but there was nothing definite or that amounted to anything, until we met at Boston, in November, 1861.

Cross-int. 142. Was not the object in view, when you begun to confer with Mr. Archbold as such committee, the obtaining from him, if possible, better terms of sale than he had up to that time proposed?

Ans. The object was to make a bargain with Mr. Archbold, on the best terms we could.

Cross-int. 143. Were not the associates dissatisfied with the terms proposed by Mr. Archbold as they existed at the time when your conferences with him as such committee begun, and was it not an object in your being constituted such a committee to obtain from Archbold, if possible, better terms than he had offered up to that time?

Ans. I don't recollect any expressions of dissatisfaction. The associates desired the most satisfactory arrangement they could make with Mr. Archbold, but I don't recollect now the precise proposition which was first made.

Cross-int. 144. Did you as such committee, procure Mr. Archbold's assent to any better terms than he had already proposed to the associates? And if so, in what respect? Please state fully.

(Objected to as incompetent and immaterial.)

104 Ans. My recollection is, that is my best recollection, that we did obtain better terms. We had a very long negotiation upon the matter. The details of the changes made during the negotiation have passed from my recollection, and I have no means by which I can refresh my recollection, but my impression is, there was a material change in the price at which the mine should be put into the company; but there was no change in the terms contained in Archbold's letter of Aug. 31, 1861, that he should have fifty per cent. of the whole stock and the agency at Glace Bay.

Cross-int. 145. State all that you recollect as to any material change agreed to by Mr. Archbold in the course of said negotiations as to the price at which the mine should be put into the company; what such change, if any, was, in the price from that named in Mr. Archbold's said letter.

(Objected to as incompetent and immaterial.)

Ans. In the letter referred to there is no price definitely stated; but the stipulation in the letter was, that the mine should be equipped with every necessary for a large business, and as I understand the proposition, it was that the party occupying the position of the associates, should furnish the money necessary to carry out this work. I can't recollect all that passed between us in carrying on the negotiation, nor do I recollect the terms and propositions which we discussed.

Cross-int. 146. Did not the associates, in fact, furnish the money necessary for the business described in Mr. Archbold's said lette? And, if not, state wherein the same was not done.

(Objected to as before.)

Ans. I furnished my proportion and presume the others did the same.

Cross-int. 147. State any single particular as to which you, as such committee, obtained from Mr. Archbold any improvement in the terms already offered by him to the associates.

(Objected to as before.)

Ans. I have already stated that the particulars of the transaction have passed from my recollection. The business in which I acted as committee was to reduce Mr. Archbold's crude proposition to a defi-

nite value in money. His proposition, as will be seen, was quite indefinite in amount, and left the whole expense of the under-
105 taking upon the associates. By the agreement, after a certain amount had been expended, Mr. Archbold was to advance money equally with the other parties interested, which is a material change from the terms proposed in his letter, and in favor of the associates. There were other propositions in regard to the value of the personal property then at the mine, the advancing by Mr. Archbold of certain sums of money which were negotiated in favor of the associates, and many other matters that I cannot now recall to definite recollection.

Cross-int. 148. At the time when you begun to act as such committee, had Mr. Archbold made any estimate of the amount of money which the Associates would be required to furnish under his proposition as it then stood; if so, what was the amount of his said estimate, and was it known to the associates?

(Objected to as before.)

Ans. I recollect of no estimate made by Mr. Archbold.

Cross-int. 149. Did Mr. Head accompany you and your associates on the visit to Glace Bay, made in Sept., 1861, to examine Mr. Archbold's mining property?

Ans. No.

Cross-int. 150. Did you not state to the associates, as an inducement for them to take hold of this enterprise, that you would yourself take an equal interest with them?

(Objected to as incompetent and immaterial.)

Ans. Mr. Emery asked me if I would take a fifth part of the stock, and I told him I would, and I did.

Cross-int. 151. Who was present at the time?

Ans. I don't recollect; Mr. Emery, of course; perhaps some one else.

Cross-int. 152. Was the contemplated interest of the associates, at the time when your conversation with Mr. Emery took place, divided into five equal parts?

(Objected to as incompetent and immaterial.)

Ans. It was contemplated that the five of us should take hold of this matter, which we did, in equal proportions.

Cross-int. 153. Did you agree with the associates to be one of the five who should take hold of the enterprise with equal interest therein?

(Objected to as before.)

106 Ans. I agreed to be one of the five associates who composed the party of the second part in the contract with Mr. Archbold.

Cross-int. 154. Did you not state to the associates your readiness to engage in this enterprise on equal terms with them as an inducement to them to engage in it themselves, and did you not propose this to them at the time when you solicited them to take interests in the same?

(Objected to as before.)

Ans. I have no recollection of making any proposition to them. At the time I spoke about taking an interest in this matter, I knew nothing of the value of the property; but the condition precedent to doing anything was to go to Cape Breton and examine the property, and at that time there was no certainty that any of us would take any interest or any proportion thereof. Subsequently, and after the arrangement had been made with Mr. Archbold as to the amount of money to be raised or furnished, then I recollect the question being asked me if I would take a fifth part, and I replied that I would. Previous to that time I intended to take an interest, but the amount was indefinite.

Cross-int. 155. Did not you offer to take an equal share with the other associates in the enterprise, before they had themselves contracted to do so, and did you not make such offer for the purpose of inducing them to enter into the contract themselves?

(Objected to as incompetent and immaterial.)

Ans. I have no recollection of anything of the sort; [on the contrary, it was one of my objects in proposing the journey to Cape Breton that the parties should see the property for themselves, form their own judgment upon it, and the only responsibility that I took or would take, was to give my opinion as to the practicability of making a harbor there.]

(Counsel for respondent objects to all the foregoing answer inclosed in brackets as not responsive.)

Cross-int. 156. Did you fix upon the sum of seventy-five thousand dollars as the amount required to open the mine and harbor according to the contract with Mr. Archbold, and state to your associates that that amount of money would be required for those purposes?

(Objected to as incompetent and immaterial.)

Ans. I don't recollect that I set the sum of seventy-five thousand dollars. I recollect that there was a difference of opinion
107 upon that subject, [and that it was stipulated in the contract that if the cost of making the improvements did not amount to seventy-five thousand dollars, that the balance should belong to the associates;] but whether the price of seventy-five thousand dollars was fixed upon by any estimate of mine or otherwise, I do not recollect.

(Counsel for respondent objects to all the foregoing answer inclosed in brackets as not responsive to the question.)

Cross-int. 157. Will you state how the amount of seventy-five thousand dollars came to be fixed upon as the sum required to carry out the improvements under that contract?

(Objected to as incompetent and immaterial.)

Ans. As I then understood and now understand the matter, the sum of seventy-five thousand dollars was not fixed upon as the cost of carrying out the improvements as in my last answer appears; that the cost of the improvements was left indefinite. I think that the sum of seventy-five thousand dollars finally settled and agreed upon came about in this way: that the capital stock of the company to be formed under the contract was fixed by ourselves at one hundred

and fifty thousand dollars, and that that stock was divided between the associates and Mr. Archbold; the associates to have the advantage of the less cost of the improvement, and Mr. Archbold to contribute one half of the excess above the seventy-five thousand dollars.

Cross-int. 158. In the interview you had with Mr. Archbold at Sidney, referred to in your answer to the seventeenth direct interrogatory, was anything said about the commission to be paid to Mr. Head?

Ans. Nothing.

Adjourned to Monday, Jan. 8th.

108 MONDAY, *Jan.* 8th.

Cross-examination resumed.

Cross-int. 159. Is not the letter marked Q, C. W. T., U. S. com., and signed S. H. Head all in your handwriting save the signature?

Ans. As I stated before, it looks like my handwriting, and looks like my writing when I used a quill pen. The recollection of the letter had passed from my mind. I am inclined to think it was written at the request of Mr. Head, or it might have been written at my suggestion as an act of courtesy to Mr. Archbold, as Mr. Head had carried on the negotiations with Mr. Archbold, and not myself.

Cross-int. 160. Are you familiar with Mr. Head's handwriting?

Ans. Yes.

Cross-int. 161. Is any part of that letter save the signature, in Mr. Head's handwriting?

Ans. No.

Cross-int. 162. At whose suggestion was the direction at the bottom of the letter "Address Stephen H. Head, care of William P. Parrott, Boston," placed there?

(Objected to as incompetent and immaterial.)

Ans. Possibly at the suggestion of Mr. Head, as he might have been going down into the State of Maine.

Cross-int. 163. Was he then going down into Maine, to your knowledge; and if so, for what purpose, if you know?

(Objected to as before.)

Ans. I think it likely he might be going down at that time, as his father and mother both reside there, and he was used to spending his spare time there.

Cross-int. 164. Do you know that he was, in fact, intending to go to Maine at the time that letter was written?

Ans. I do not; my recollection of the whole occurrence is indefinite, because it was not important enough to make any permanent impression on my mind.

Cross-int. 165. Have you any doubt but that you wrote the said letter which is signed by Mr. Head?

109 Ans. I have no doubt, as I have compared that with other manuscripts in my handwriting, written with a quill pen.

Cross-int. 166. Did Mr. Head receive an answer to this letter you wrote for him before you went to Cape Breton?

(Objected to as incompetent and immaterial.)

Ans. Not to my knowledge.

Cross-int. 167. Have you any recollection as to the matter either way?

(Objected to as above.)

Ans. To the best of my recollection, and the best effort of memory I can make, he had not, to my knowledge.

Cross. int. 168. Do you now recall any fact or circumstance that serves to assist your memory on this point? If yea, please state what it is.

(Objected to as before.)

Ans. I cannot recall any circumstance; if I had anything to recall my memory to it, I should be very glad of it, if it would enable me to answer this question more accurately than I have.

Cross-int. 169. Did you not represent to the associates that in your opinion the expense of completing the work specified in the contract with Mr. Archbold would fall short of seventy-five thousand dollars?

(Objected to as incompetent, immaterial, and as having been previously answered.)

Ans. My recollection is not distinct upon that point; but I will state what I recollect, in order to answer the question as fully as possible. The schedule of work to be performed under the contract was indefinite as to cost. The first estimate, made by Mr. Emery, I think, and myself, was about fifty-six thousand dollars. The estimates in regard to excavation of the harbor, as I before stated, were based upon the representations of Mr. Archbold. The depth of the excavation very much exceeded the amount we had been led to expect there would be from those statements. There was a large room for a diversity of opinion as to the cost of that work. My own impression is, that I expressed an opinion that the cost would equal seventy-five thousand dollars; and I think so because I had rather over estimate than under estimate; that is my general practice. I know that we had a good deal of discussion upon the subject, and that some of the associates thought there would be some
110 money made on that contract, from the difference between the fifty-six thousand and the seventy-five thousand dollars. To the best of my recollection, my opinion was expressed that there would be little profit on the contract. I have no recollection of expressing a decided opinion one way or the other.

Cross-int. 170. Where did the first interview between Mr. Archbold and Mr. Head, of which you have any personal knowledge, take place? When was it, and who were present?

Ans. I have no recollection.

Cross-int. 171. Are you not able to recall either the time, or the place, or the names of the persons present, at the earliest interview between Messrs. Archbold and Head, which you ever witnessed?

Ans. I have no certain recollection, as I had then no personal interest in the matter, but to the best of my recollection I saw Mr. Archbold, Mr. Head, and Mr. Odiorne on Long wharf, in June, 1861. I think it was in June.

Cross-int. 172. State, as fully as you can, all that was done and said by and between them at that time.

Ans. I stated before that my recollection was very indistinct, both in regard to this and everything connected with Mr. Archbold's visit to Boston, in June, 1861; but I think the conversation at that time was limited entirely to the subject of making a harbor at Little Glace Bay. I don't recollect by whom, or where, I was first introduced to Mr. Archbold.

Cross-int. 173. Was Mr. Archbold at your office during his stay in Boston, in June, 1861?

Ans. My recollection is not distinct upon that subject. I think it likely he was; but I know I was there but very little myself, but as it would be more convenient to examine his plans there, I think it likely that I availed myself of some interval of time to examine them there.

Cross-int. 174. When were the certificates of stock in the Glace Bay Mining Company delivered by Mr. Archbold for getting up this company, and where did this transaction take place?

Ans. Some stock was delivered in September, 1862, at my office by Mr. Archbold.

Cross-int. 175. To whom was it delivered by Archbold?

Ans. To Mr. Head.

111 Cross-int. 176. Thereupon did not Mr. Head immediately deliver to you the certificate for one hundred and twelve shares which has been annexed to your deposition; and did he not do this in the presence of Mr. Archbold?

(Objected to as immaterial and incompetent.)

Ans. I think Mr. Head then, or soon after, gave me that certificate; but whether in the presence of Mr. Archbold I do not recollect.

Cross-int. 177. Did not you make, previous to the delivery of these certificates, a calculation of the number of shares which Mr. Head was entitled to receive under his contract from Mr. Archbold, and did you not deliver to Mr. Archbold a written memorandum of the said shares, with directions how to take out the certificates so as to make an equal division of the shares between yourself and Head, and was not Mr. Head himself present while this was done?

Ans. In regard to the contract between Mr. Archbold and Mr. Head I knew nothing, except what the parties had told me themselves. I knew that Mr. Head insisted that the contract was for twenty per cent., and that Mr. Archbold thought that fifteen per cent. was enough; so that the calculation then made was not, as expressed in the interrogatory, "his contract." I made a calculation upon the amount due when there was no controversy; at that time the associates had not received their full amount of stock, and I did not know that Mr. Archbold had received his whole amount of stock. The calculation was made in consequence of Mr. Archbold saying, when he came up to my office, that he had some stock for Mr. Head, or words to that effect; and I made the calculation on the basis of fifteen per cent.; and I think also a memorandum as to how the stock should be divided. I think it probable that the memorandum

contained an item for one certificate for the amount of one hundred and twelve shares. As to the other division I don't recollect. Mr. Head was present part of the time, if not the whole.

Cross-int. 178. At the time you made this calculation, you knew, did you not, what was the whole amount of the capital stock of the Glace Bay Mining Company?

Ans. Yes.

Cross-int. 179. Archbold's remark that he had some stock
112 for Mr. Head was made before you made the calculation of the amount to be delivered, was it not?

Ans. I presume it was.

Cross-int. 180. Was there, to your knowledge, at the time when you made this calculation, any dispute between Archbold and Head as to the percentage of the capital stock that Archbold was to pay to Head?

Ans. There was a dispute, to my knowledge, as early as November, 1861; not at that time as to the amount contracted for between Mr. Archbold and Mr. Head, but a difference of opinion, Mr. Archbold thinking that fifteen per cent. was sufficient, and Mr. Head insisting upon the original bargain. At that time I endeavored to get a written contract between the parties, both to prevent dispute and to secure any interest I might have in the matter; and as a difference of opinion between the parties seemed to be, on the part of Mr. Archbold, that the work was all done, and on the part of Mr. Head that there was a good deal more to do, I attempted to draw a paper or contract which would embrace these differences of opinion and secure my interest. Mr. Archbold, I think, was willing to make such an arrangement, but Mr. Head utterly refused to sign any paper which varied from the original agreement of twenty per cent.

Cross-int. 181. At the time referred to in your last answer, to wit, November, 1861, what did you know as to the "original contract" between Mr. Archbold and Mr. Head, and state from whom you got your information as to it? Please state fully.

Ans. I was informed by Mr. Head that he had made a contract with Mr. Archbold to get up a company, and that if he succeeded in doing so he should have twenty per cent. of the stock of the company. From Mr. Archbold, on my visit to Sidney, I learned that this contract had a limitation as to time—I think it was the first of October or November, 1861—but was then voluntarily extended by him through me. From Mr. Archbold, in November, 1861, in Boston, I learned from his expression—you ought to be satisfied with fifteen per cent. instead of twenty—that the agreement was as Mr. Head represented it to me. I don't recollect any further information at this time.

Cross-int. 182. State all, if anything, that you ever heard said between Messrs. Archbold and Head on the subject of the latter's compensation for getting up the company, before December
113 1, 1861. Please give the dates of such conversations, if any, between them, the place of their occurrence, and name the persons who were present in each instance.

Ans. I am unable to state all the conversation that occurred upon this subject. At the time Mr. Archbold was in Boston, in June, 1861, I have no distinct recollection that this matter was spoken of in my presence. At my interview with Mr. Archbold, at Sidney, upon the subject of this contract, I have no recollection that the subject of compensation was alluded to at all. At the time Mr. Archbold was in Boston, in November, 1861, there was a good deal of conversation upon the subject, but I cannot recollect all that was said, but can recollect only the general character of the conversation, which was on the part of Mr. Archbold, that he thought Mr. Head should take fifteen per cent.; that that was enough, and Mr. Head insisting that the contract was for twenty per cent., which Mr. Archbold, to my knowledge, never denied, at that time, to the best of my recollection. These conversations took place at my office, No. 40 State street, and I recollect no person being present at that time but Mr. Archbold, Mr. Head, and myself.

Cross-int. 183. Did Mr. Archbold, at the interview in Boston, in November, 1861, admit that he had agreed to pay twenty per cent. to Mr. Head? If so, give the exact words he used on that subject?

Ans. Yes, frequently. The first time he said, "Well, we have got through with this thing with less labor than we expected. You ought to be satisfied with fifteen instead of twenty per cent." These are the exact words to the best of my recollection. In the subsequent conversations, immediately after this, the matter was frequently referred to in conversations upon the subject, but I cannot recollect the precise words. The first words referred to above were spoken as we came down the stairs together, from Mr. Hubbard's office. Mr. Archbold, Mr. Head, and myself were together. We came down to the street and across to my office at No. 40, and there the subject was continued, but whether it was all finished on that day, or whether we discussed it subsequently, I can't recollect.

Cross-int. 184. Did you take any part in these conversations yourself?

Ans. Probably I took a part; as I before stated, I endeav-
114 ored to get this matter definitely settled, and could not have very well done so unless I had joined in the conversation.

Cross-int. 185. Have you now given all that you recollect of the conversation at the interviews above referred to by you?

Ans. I believe I have.

Cross-int. 186. Did the parties come to any agreement about the commissions on the last occasion referred to by you in your answer to the one hundred and eighty-third cross-interrogatory?

Ans. They came to no agreement, for the reason that Mr. Head would assent to no variation from what he said was the original agreement.

Cross-int. 187. Was the matter still in dispute at the time when you made the calculation about the shares to be transferred by Mr. Archbold to Mr. Head in September, 1862, above referred to?

Ans. The matter, to the best of my recollection, remained then as it was in November, 1861.

Cross-int. 188. Was Mr. Head present and knowing to the memorandum given by you for the certificates to Mr. Archbold in September, 1862?

Ans. I don't recollect whether Mr. Head was present. I think he was, to my best recollection. I think he was not knowing to those memorandum, because I returned immediately to Glace Bay, and when I next met Mr. Head he [told me that he had not got all the stock he was entitled to, and I replied to him that that would make no difference, that I thought Mr. Archbold would do what was right in the matter, and that I considered that payment as payment on account, and that we had none of us got our full amount of stock then.]

(Counsel for respondent objects to all the above answer inclosed in brackets as not responsive and as incompetent.)

Cross-int. 189. Was Mr. Archbold present at the conversation between you and Mr. Head, referred to in your above answer?

Ans. I think he was not.

Cross-int. 190. Have you any doubt on that point?

Ans. Very little, if any.

Cross-int. 191. Have you any doubt whatever?

Ans. No; I have considered the matter more carefully. When I first answered I had not done so. I have no doubt that Mr. Archbold was not there.

Cross-int. 192. State all the conversation that took place on the occasion, in September, 1862, above referred to, previous to your handing to Mr. Archbold the memorandum made by you for the stock to be delivered by him.

Ans. It is impossible for me to recollect all the conversation. At that time I had but very little time to spare, and I recollect no conversation other than that referred to in my previous answers.

Cross-int. 193. Did you explain your figures to Mr. Archbold at the time, and go over the calculation with him?

Ans. I don't recollect that I did.

Cross-int. 194. Do you remember how this was?

Ans. I do not; but I suppose that Mr. Archbold understood it as well as myself.

Cross-int. 195. You understood it perfectly, did you not?

Ans. I understood then the amount of stock to be paid at that time as before testified to in answer to cross-interrogatory one hundred and seventy-seven, and presume Mr. Archbold understood it also, as he is conversant with figures. I don't know that Mr. Archbold did not make his own figures.

Cross-int. 196. Did either you or Mr. Head, at the time you made this calculation, state to Mr. Archbold that it was for a payment on account, or indicate to him in any way that it was not made on the basis of a settlement in full for the commissions to be paid to Mr. Head?

Ans. I said nothing myself to Mr. Archbold. The contract was with Mr. Head. There was no conversation in my presence between Mr. Archbold and Mr. Head upon the subject, one way or the other.

Cross-int. 197. What led you to take upon yourself the making of

the calculation of the amount of stock to be paid? If it was Mr. Head's contract, why did you not leave it to him to make his own computation of the amount due him from Mr. Archbold?

Ans. Because I thought I had an interest in it, although it was Mr. Head's contract, and I wanted to get as much of that interest settled as I could.

Cross-int. 198. Was you interest adverse to Mr. Head's?

Ans. I was to have a part of the amount received from Mr.
116 Archbold by Mr. Head. I don't know what is meant by adverse interest, but there were reasons why I desired some settlement, if only a partial one.

Cross-int. 199. In what you did on this occasion did you act with authority from Mr. Head or not?

Ans. I had no special authority from Mr. Head. I made the figures as a matter of convenience to both Mr. Head and myself.

Cross-int. 200. Had you any wish to conceal anything from Mr. Head on that occasion, or any special object in taking the matter of settlement into your own hands?

Ans. I had no wish to conceal anything from Mr. Head on that occasion. I was more conversant with figures than Mr. Head, and we were hurried for time. I have always made the figures in matters where Mr. Head and myself were interested. I was desirous of such settlement as we could get at that time; but am aware of no desire to mislead any party.

Cross-int. 201. Did Mr. Archbold say anything to lead you to suppose that he was not then prepared to make a full settlement of whatever contract existed between him and Mr. Head?

Ans. I have no recollection that Mr. Archbold said anything upon the subject.

Cross-int. 202. When you communicated your computation to Mr. Archbold, what did he next do or say in your presence?

Ans. I don't recollect.

Cross-int. 203. Did he not immediately leave your office, and subsequently, on the same day, return there with certificates for the number of shares specified in your computation?

Ans. My best recollection is that that stock was delivered in two parcels. My impression is that he left, as asked above, with the memorandum—either his own or mine—and that he soon after returned with some stock; but I think the whole quantity was not brought at that time. I think that day or the next the whole quantity, as testified to, was brought to my office by Mr. Archbold.

Cross-int. 204. Was Mr. Head present, and did he receive the whole of the stock from Mr. Archbold, or was your certificate of one hundred and twelve shares delivered to you directly by Mr. Archbold?

Ans. My recollection is that the stock was transferred in
117 blank by Mr. Archbold. My best recollection is that the certificate delivered me was given to me by Mr. Head.

Cross-int. 205. Did you receive any portion of the certificates of the stock from Mr. Archbold, or was the whole of it when brought to your office by him, delivered by him to Mr. Head?

Ans. I can't recollect distinctly.

Cross-int. 206. Can you recollect whether Mr. Head's portion, or any part of it was handed to you by Mr. Archbold?

Ans. I can't recollect that any portion of it was delivered to me.

Adjourned to Tuesday at 10 a. m.

TUESDAY, 10 a. m.

Cross-examination resumed:

Cross-int. 207. When first, if at all, after the day in September, 1862, on which the stock was delivered by Mr. Archbold, did you first know of Head's claiming from Mr. Archbold anything more than the fifteen per cent. paid to him on that occasion?

Ans. The first time I knew of Mr. Head claiming personally of Mr. Archbold in his presence and mine, more than fifteen per cent., was, I think, in September, eighteen hundred and sixty-four.

(Corrected at the end of deposition.)

Cross-int. 208. Where did the interview in September, eighteen hundred and sixty-four, to which you refer in your last answer, take place? Who were present, and state all that was said by either of the parties at the interview.

Ans. The interview took place at my office in State street. There were present Mr. Archbold, Mr. Head, and myself. There was a good deal said upon the subject, and I cannot recollect all that was said. The part relating to this matter, that is to say, to this contract, that I recollect—Mr. Head said to Mr. Archbold, "I wanted twenty-five per cent.," or "I asked you twenty-five per cent., and you offer me fifteen, and we finally agreed upon twenty per
118 per cent." "Yes," said Mr. Archbold, "but we afterwards altered that agreement, and I have papers at Cape Breton which will show it." They were both a good deal excited, and I remarked that they had better say nothing more about it then. That when we went to Cape Breton we could see the papers and settle it there. This is substantially what was said at that time.

Cross-int. 209. On this occasion, and while this conversation was taking place between Messrs. Archbold and Head, were you in the same room with them, or in an adjoining room?

Ans. I think we were all in the same room. I think I was sitting at my desk, and Mr. Head and Mr. Archbold seated near me.

Cross-int. 210. How were you yourself occupied at the time?

Ans. I think I had been writing before they came in, and when they came in I laid my pen down, as I could not write while this conversation was going on.

Cross-int. 211. Did Archbold and Head come into the office together?

Ans. I don't recollect.

Cross-int. 212. Were you aware of a purpose on the part of Mr. Head, to make this claim upon Mr. Archbold, at this particular time?

Ans. I was not aware of it. It took me by surprise.

Cross-int. 213. Did not Mr. Head at this interview make a remark substantially as follows: "twenty-five per cent. is usual in such matters," and did not Mr. Archbold reply, "you only asked twenty and agreed to take fifteen?"

Ans. In regard to the first part of the question, I think Mr. Head did say "twenty-five per cent. is usual in such matters," or words to that effect. The remainder of the quotation in the interrogatory was not said in my presence, nor words to that effect.

Cross-int. 214. Did you hear all of the conversation that took place between Messrs. Archbold and Head on this occasion?

Ans. I think I did. My impression is, that Mr. Archbold went out before Mr. Head.

Cross-int. 215. Did not Mr. Archbold, on this occasion, claim that he had fully paid Mr. Head's commission, and that the amount of fifteen per cent. was what he and Head had ultimately agreed upon, and that he had papers at home that he thought would show this?

Ans. No, not in my hearing.

119 Cross-int. 216. Did not Mr. Archbold say, at this time, in substance to Mr. Head, that he had fully paid to him his commission.

Ans. No; not in my presence.

Cross-int. 217. Did not Mr. Archbold, in your presence, on this occasion, say to Mr. Head, "you only asked twenty per cent. and finally agreed to take fifteen, and I have paid you that as my papers at home will, I think, show?"

Ans. I recollect nothing of the sort. To the best of my recollection, not a word was said in regard to any settlement; but the conversation was upon what was the original contract. It is possible that Mr. Archbold said in the conversation, something like the words "you only asked twenty per cent." Several things were said and denied by the parties. I have given the substance and final conclusion of the conversation as accurately as possible from my recollection, as I made no memorandum of the conversation.

Cross-int. 218. Did not Mr. Archbold in the course of this conversation say to Mr. Head that he thought he had papers at home which would show that he and Head had finally agreed upon fifteen per cent. as the amount of the commission? Did he not say this in substance in your hearing?

Ans. No. [What Mr. Archbold said in regard to papers at Cape Breton, I have already fully stated in my previous answers, that was the only reference to papers at Cape Breton made in my hearing.]

(Counsel for respondent objects to all the foregoing answer in brackets as not responsive.)

Cross-int. 219. Will you undertake to say that you remember all that was said on this occasion by Messrs. Head and Archbold, and that it is not possible that you are mistaken as to some of the expressions which you have testified were used by them?

Ans. I have already stated that I could not remember all the conversation that took place at that time; but the matters which I have mentioned, I do not think it probaele I am mistaken in, because sub-

sequent events within a short time after this conversation, have had a tendency to fix them in my memory.

Cross-int. 220. Were there not, to your knowledge, between September, 1862, and September, 1864, frequent interviews at Glace Bay, Halifax, and Boston, between Messrs. Archbold and
120 Head, at which nothing was said about any error in the settlement made at the date first named, or any claim made by Head upon Archbold for additional compensation?

Ans. Yes.

Cross-int. 221. Did you ever tell Mr. Archbold that you were to have one-half of the commissions to be paid to Mr. Head for getting up the company? If yea, when did you first state this to him, and what was said on that occasion?

Ans. I don't recollect when I first stated this fact to Mr. Archbold, but in November, 1861, he knew it as well as I did.

Cross-int. 222. How did he know it then?

Ans. From conversations between Mr. Head, Mr. Archbold, and myself.

Cross-int. 223. State the conversations to which you refer, where they took place, and who were present on each occasion.

Ans. I refer to my answer to cross-interrogatory one hundred and eighty. I can't recollect all the conversation at that time; but in that conversation this matter was mentioned.

Cross-int. 224. Did you, on that occasion, in November, 1861, inform Mr. Archbold that you were to have one-half of Head's commissions for getting up the company?

Ans. Mr. Archbold was then informed; whether by Mr. Head or by myself I can't recollect.

Cross-int. 225. Were you present when he was so informed of that fact?

Ans. I presume I was.

Cross-int. 226. Will you examine the letter marked S, C. W. T., U. S. com., and state, if you are familiar with the handwriting of George Hughes, of the firm of Atherton, Hughes & Co., whether or not the said letter is in the said Hughes' handwriting?

Ans. I have examined it, and it is in the handwriting of Mr. Hughes.

Cross-int. 227. Do you know of any interview between Messrs. Archbold and Head, before the contract between Archbold and the associates was signed, at which you were not yourself present?

Ans. I don't know of any.

Cross-int. 228. Was not the first conversation between Head
121 and Archbold about the compensation to be paid to Head, at which you were present, held after November 1, 1861?

Ans. The first interview at which I was present where this subject was mentioned was, as before testified, in 1861.

Cross-int. 229. Did Head make any objection, on the occasion, in September, 1862, when you made the calculation of stock to be given by Archbold, to anything that you did about it?

Ans. On that day he said nothing; we were all of us in a hurry

that day. I have no recollection of sitting down in my office that day. The calculations and everything that was done at that time was done standing up at my drawing-table in the middle room of my office, on that day.

Cross-int. 230. When you applied to Messrs. Hubbard and others, in August, 1861, to take hold of this enterprise, did you not say to them that you were acquainted with Mr. Archbold's mines?

Ans. No.

Cross-int. 231. After returning from the visit to Cape Breton, made by you and Messrs. Howe, Emery, and Converse, in September, 1861, did not Mr. Archbold come to Boston, and were not the negotiations between him and the associates carried on and completed in Boston?

Ans. Yes.

Cross-int. 232. While the negotiations were in progress in Boston did you not have frequent interviews with Mr. Archbold, at which neither Messrs. Hubbard, Emery, Howe, nor Converse were present? And did you not, during said period, confidentially advise and suggest to Mr. Archbold what he should say to the gentlemen named to enhance the value of his property in their estimation?

(Objected to as incompetent and immaterial and impertinent.)

Ans. I had frequent interviews with Mr. Archbold for the purpose of concluding this bargain, at which these gentlemen were not present. [I did nearly all the labor of the negotiation. There was no doubt on the minds of the associates as to the value of the property after they had made the examination for themselves. Two questions only were open, one the practicability of making the harbor, the other the details of forming a company, including the proportion which Mr. Archbold should receive. There was no reason for making any suggestions such as are intimated in the interrogatory, and the persons embarking in this enterprise had as good information and knew
122 as much about it as I did myself, as we obtained our information from the same sources by personal examination.]

(Counsel for respondent objects to all the foregoing answer which is inclosed in brackets, as irresponsive and incompetent.)

Cross-int. 233. Did you, after the transaction, in September, 1862, of the delivery of the stock by Mr. Archbold, ever personally say or suggest to him that he had not fully performed his contract with Mr. Head, or make any objection to him, on your own behalf, concerning the same?

(Objected as incompetent and immaterial.)

Ans. I never said anything to Mr. Archbold on the subject.

Cross-int. 234. Was Mr. Archbold's contract with Mr. Head ever to your knowledge put in writing?

Ans. No.

Cross-int. 235. What led Mr. Archbold to make the statement to you testified to by you in your answer to the seventeenth direct interrogatory?

Ans. I don't know; he made it to me voluntarily at Sidney.

Cross-int. 236. Had you not stated to him that you had an interest

in Mr. Head's contract for commissions for getting up the proposed company?

Ans. I don't recollect.

Cross-int. 237. Did it not appear, from what was said on that occasion, that he was aware of your interest in that contract?

Ans. I don't distinctly recollect.

Cross-int. 238. Can you give any reason for Mr. Archbold's making the statement referred to *to* you at that time?

Ans. I can't say, any further than that the time was nearly out, as he said. I think that the words he used were, "You know that the time in my agreement with Mr. Head is limited to such a date," or words to that effect. I did not know that fact, or if I did I had forgotten it; and, as it was an important fact, it made an impression on my mind.

Cross-int. 239. What reply, if any, did you make to Mr. Archbold's said statement?

Ans. I don't recollect, if I made any.

Cross-int. 240. What further conversation, if any, took place at this time?

123 Ans. I don't recollect, further than before testified. I think this conversation took place as we were walking in the street.

Cross-int. 241. Was any one else present beside yourselves?

Ans. Not to my recollection.

Cross-int. 242. In your answer to the twenty-second direct interrogatory you mention a conversation between Messrs. Archbold and Head, at which you were present. State whether this was the first conversation between Messrs. Archbold and Head that you ever heard on the subject of the compensation to be given by Mr. Archbold for getting up the company.

Ans. I think it was.

Cross-int. 243. In your answer to the thirty-first direct interrogatory you stated that you had a conversation with Mr. Archbold early in July, 1862, at Glace Bay, at which, having had a misunderstanding with Mr. Head, you asked Mr. Archbold if he would aid you to secure your interest. Were you then apprehensive that Mr. Head would refuse to perform his agreement with you? and if so, for what cause, if any? Please explain fully.

(Objected to as incompetent and immaterial.)

Ans. I did not know but I might have trouble, because I had no written agreement with Mr. Head.

Cross-int. 244. How long had you then known Mr. Head and how intimate had been your acquaintance with him and your knowledge of his business character?

Ans. I had then known Mr. Head some twelve or thirteen years. I had no doubt about his honor in the matter; any apprehensions which I had arose from my knowledge of his temper, which sometimes carried him away.

Cross-int. 245. Were you then apprehensive that Mr. Head might try to defraud you of your interest in his contract with Mr. Archbold

because your agreement with him was not in writing or because of his violent temper?

(Objected to as irrelevant and immaterial.)

Ans. I had no doubt about Mr. Head's integrity. As I before stated, he might have put me to the trouble of a lawsuit or delay.

Cross-int. 246. Did you anticipate that he would try to avoid his agreement with you or set up a dishonorable defence to your
124 claim because he was angry with you, and was that your reason for appealing to Mr. Archbold to assist you to secure what was due you from Mr. Head?

(Objected to as incompetent and immaterial.)

Ans. No. My object in appealing to Mr. Archbold was that he should pay to me my proportion, and not pay the whole to Mr. Head.

Cross-int. 247. Why were you anxious that he should do this or unwilling to trust to Mr. Head's own performance of his contract with you?

(Objected to as before.)

Ans. Because that would have prevented any trouble or dispute in my opinion.

Cross-int. 248. What trouble or dispute did you think to avoid in thus applying for Mr. Archbold's aid in the matter?

(Objected to as before.)

Ans. The partition of the stock between Mr. Head and myself?

Cross-int. 249. Were you afraid to trust this partition to Mr. Head; and if so, why?

(Objected to as before.)

Ans. I have already stated to the best of my ability, as I believe.

Cross-int. 250. Will you please to state again?

Ans. What I mean to say is, that in consequence of my misunderstanding with Mr. Head I might have been subjected to delay and inconvenience in the settlement of that account, and getting the stock to which I was entitled by that agreement. I had no reason to doubt that I should ultimately get it.

Cross-int. 251. In a previous answer you mention the fact that your contract was not in writing, as a ground for your application to Mr. Archbold for assistance. Will you please state what influence that fact had upon you in the matter?

(Objected to as incompetent, immaterial, and as having been previously answered.)

Ans. Because I considered an agreement in writing worth more than a verbal one.

Cross-int. 252. Did you suppose Mr. Head would respect a written agreement when he might refuse to perform an oral agreement made by him, and was this the reason for your appeal to Mr. Archbo d?

125 Objected to as before, and also calling for the opinion on a supposed case.)

Ans. I don't know that I weighed in my mind at that time the question whether Mr. Head would regard the one above the other. I had had as before stated a misunderstanding; I wished to protect

myself as well as I could in case of difficulty, and that was the reason for my appeal to Mr. Archbold.

Cross-int. 253. Had Mr. Head already threatened to deprive you of your part of the commissions, or did you apply to Mr. Archbold in anticipation of a refusal by Head to perform his agreement with you?

(Objected to as incompetent and immaterial.)

Ans. Mr. Head never threatened to deprive me of my part. I applied to Mr. Archbold in anticipation of a delay in settlement.

Cross-int. 254. What did you suppose might occasion the delay you feared?

(Objected to as before.)

Ans. Mr. Head's wilfulness of temper.

Cross-int. 255. Did you suppose that Mr. Head's wilfulness of temper would lead him to try to disregard an oral promise which might be binding upon his honor only, where he would respect a written agreement that bound him in law?

(Objected to as before.)

Ans. I don't suppose that Mr. Head's willfulness of temper would make him disregard, for any great length of time, any promise that he had fairly made, either oral or written; but in my judgment, at that time and now, I supposed that a written contract was better to induce a man to prompt settlement than an oral one was.

Cross-int. 256. Did you suppose that the fact that a promise was merely oral and not in writing, and for that reason perhaps, not legally binding, would make any difference to a man of business, honor, and integrity?

(Objected to as incompetent and immaterial, and as calling for the opinion of the witness upon a supposed case that has no reference whatever to the present suit or the parties interested in the same.)

Ans. I suppose that a man of business, honor, and integrity is as much bound by an oral contract as a written one.

Cross-int. 257. In your answer to the thirty-first direct in-
126 terrogatory, have you given all the conversation between yourself and Mr. Archbold had at the time referred to therein?

Ans. I think I have, on this subject.

Cross-int. 258. What was the consideration for the release mentioned in your answer to the thirty-seventh direct interrogatory?

Ans. All the interest which Mr. Head had in any of the mining rights on the west coast of Cape Breton, north of Cheticamp.

Cross-int. 259. Did he convey to you his interest in the mining rights mentioned in your previous answer? and if yea, what was his said interest, and what was the value of the same, and when did he execute such release to you? and if in writing, please produce the same.

(Objected to as incompetent and immaterial.)

Ans. He did convey these rights; his interest was one-sixth of the whole of said rights; the value was indefinite, but I considered them valuable, as we found strong indications of silver on one of them; on another we owned, besides the mining rights, an area of

six hundred and forty acres of land, for which we had the grant of the Crown; he executed the release in Oct., 1865, I think; it is in writing.

Cross-int. 260. What did these rights that Mr. Head released to you cost him, if anything?

(Objected to as incompetent and immaterial.)

Ans. I can't state with precision; but these rights, with others, cost a considerable amount of money, but I cannot separate the cost of these from the others, nor approximate thereto with certainty.

Cross-int. 261. When was your release to Mr. Head, mentioned in your answer to the thirty-seventh direct interrogatory, given?

Ans. In the early part of October, 1865.

Cross-int. 262. Was said release in writing? If yea, please produce the same, and annex the same, or a copy thereof, to this deposition.

Ans. It was in writing, and I annex a copy of the same, marked "T, C. W. T., U. S. com."

Adjourned to Thursday, 10 a. m.

127 THURSDAY.

Cross-examination resumed:

Cross-int. 263. Did you draw up a paper or contract such as is mentioned in your answer to the one hundred and eightieth cross-interrogatory? If yea, please annex the same to your answer.

Ans. I think I drew up a rough memorandum, but no complete contract; and I have no copy of the same. To the best of my recollection, I handed the original to Mr. Head, and I think Mr. Head put it into the fire.

Cross-int. 264. Will you please state the contents of the paper which you did draw up?

Ans. I cannot, with the least degree of certainty.

Cross-int. 265. State the substance of all that you can remember of the contents of that paper.

Ans. I think that the paper, in substance, stated the fact of twenty per cent., being the original agreement; that in consequence of Mr. Archbold's supposing the work was all done, and that fifteen per cent. under that supposition would be sufficient compensation; I think there was some provision made in the paper by which an equitable arrangement could be made in relation to this matter, that is, the controversy between fifteen and twenty per cent. I think there was also further provision in the paper, by which any right I might have would be recognized in writing by the parties.

Cross-int. 266. At whose suggestion or request, if any, did you draw up this paper?

Ans. I don't recollect; it was not, however, at the request of Mr. Head; but whether at the request of Mr. Archbold or at my own suggestion, I cannot state.

Cross-int. 267. Did the six hundred and forty acres of land mentioned in your answer to the two hundred and fifty-ninth cross-inter-

rogatory cost more or less than forty cents an acre? And were not the mining rights which Mr. Head released to you granted by the government free of charge or expense to the grantees? If not, state what the cost and expenses were.

(Objected to as incompetent and immaterial.

126 Ans. The price paid for the land was, I think, more than forty cents per acre. The government has one regular price for their lands, good and bad, as far as I know, which is, I think, forty-four cents an acre; but that is no measure of the real value of land when required for mining purposes. The government requires in all cases, and did in this case, payment of certain fixed fees, to wit, twenty dollars for a right of search, and a bond to the amount, I think, of two hundred pounds currency ($800); for a right to work, a fee of fifty dollars; and for a lease, an additional fifty dollars. I state this from recollection, without looking at the schedule. The fees paid to the government are not a measure of the value of the mining right. I presume that the regular government price was paid for these six hundred and forty acres of land, and the fees above noted paid, and the conditions complied with.

Cross-int. 268. What was the bond of two hundred pounds given for, and has there been any money paid under the same?

Ans. The bond is given to protect persons owning the fee of the land from injury through the exercise of their mining rights.

Cross-int. 269. Did you not make the discovery of these mining rights, and visit them while in the employment of the associates or Glace Bay Mining Company? If not, when did you get them?

Ans. I made an arrangement with certain parties early in the year 1864, to make some explorations on the northwest coast of Cape Breton; I subsequently made an arrangement with the Glace Bay Company to do certain things at Glace Bay, and I did them both. I think that between January and August, 1864, the proportion of time devoted to the Glace Bay Company was about in proportion of five-sixths of my time. During that period I visited the locality where these rights of search are, as I had previously agreed to do.

Re-direct examination, by counsel for complainant:

Int. 1. State whether or not you are acquainted with Mr. Head's capacity as a business man? If yea, state what the same is in your opinion.

(Objected to as incompetent at this stage of the examina-
129 tion; the subject-matter of the question having been already entered upon in the direct examination.)

Ans. I have before stated that I was well acquainted with Mr. Head. Mr. Head is a man of great energy, a man of great natural ability for business. I know of few men of more perseverance and general ability, or more likely to carry through a project requiring these qualifications. He labors under the disadvantage of neglect in his early education; with this exception, there are few men better qualified for getting up an enterprise similar to the Glace Bay Company.

(Counsel for respondent objects to the answer as incompetent and irresponsive.)

Int. 2. State whether or not you know what Mr. Head's general reputation as a business man is, in circles where he is known? If yea, state what the same is.

(Objected to as before.)

Ans. So far as I know, his reputation among business men, is good for energy, perseverance, and attention to his work. In the matter of accounts and calculations he is deficient, for the reason of want of education in such matters.

Int. 3. Did you consider the compensation paid to Mr. Head by the associates mentioned in your answer to the fiftieth cross-interrogatory, a fair compensation for all the services rendered by him at Glace Bay?

(Objected to as incompetent and irrelevant.)

Ans. I did not; but rather as a compensation for work; that is to say, in procuring material and doing other business which Mr. Archbold should have done as the agent of the company.

Int. 4. Will you explain all the circumstances, if any, connected with said compensation, and also in regard to the account for Mr. Head's services approved by you?

Ans. As soon in November, 1861, as I could make up the memorandum for the timber required for our work, I sent them to Mr. Archbold in order that the materials might be seasonably procured. When I arrived at Glace Bay, in March, 1862, although a man had been previously sent down to build the boats, I found no materials for them on hand as I expected. There were a few rough knees or stumps and some timber hauled in for piling. Mr. Archbold was absent in Halifax, and had left this business with a young
130 man who attended his store in Sidney. This young man stated that a contract had been made to get some of the timber, but that the contractor had not done so. Mr. Head, at my request, undertook to get this supply of materials, and the whole district from Sidney to Cow Bay was traversed to obtain a supply, picking up an old mast in one place and a stick of timber in another, and going through the woods to find knees under the snow, digging them out, and getting them to the work; getting planks and material from Sidney. The result was, that before Mr. Archbold returned from Halifax, the work was well under way. Had I waited for his return, it would have exceedingly interfered with the progress of our works, as in April the roads in that section are almost impassable; and that would have obliged us to have delayed our work until the last of May, or the first of June, at which time our dredge-boat was nearly completed. I have no doubt the exertions of Mr. Head at that time, made a difference to us in the progress of our work of, at least, three months.

In regard to the account, it was made up in the form in which it appears by a number of days stated, because that is the usual way of preparing such vouchers; so many days, at so much per day. I think that it was left with me to determine the amount, and I did so, and made it out in that form.

Int. 5. Was then this account a mere matter of form made up by you in the form stated, for the purpose of answering as a voucher to the associates, or was it a true account of the services rendered by Mr. Head at Glace Bay, and the value of the same?

(Objected to as incompetent.)

Ans. I don't clearly understand the expression of "mere form." I desire in my vouchers not only to show the amount paid, but also some brief statement what the amount was paid for; and I presume that it was made in the form in which it is, to show not only that Mr. Head received that amount of money, but also that it was received for services at Glace Bay; but I never considered Mr. Head hired to work there by the day; but this as rather for extra services rendered, as before stated.

Int. 6. State who was present, if any one, at the interviews testified to by you in answer to cross-interrogatory one hundred and twenty-eight, which you, as committee man, had with Mr. Archbold in November, 1861.

Ans. I think that the interviews with Mr. Archbold, as
131 above interrogated about, Mr. Head was present at every interview. I recollect of no other persons. These interviews, which I now refer to, were those where Dr. Howe was not present. Part of these interviews were at my office, and I think that there Mr. Head was present; in the interviews between Dr. Howe, Mr. Archbold and myself, at Dr. Howe's office, I have no recollection of Mr. Head being present. When a question of details arose at the interview at Dr. Howe's office, which required some considerable consideration and discussion, it was done at my office, where it was more quiet and less liable to interruption.

Int. 7. State what part, if any, Mr. Head took in these consultations and discussions referred to in your last answer.

(Objected to as incompetent.)

Ans. I can't distinctly recollect, but as a discussion of cost of machinery, and many details of the cost of the work, was an important part of the matter discussed, and Mr. Head's opinion upon such matters was very reliable, I have no doubt we availed ourselves of that means of information.

(Counsel for respondent objects to the answer as incompetent.)

Int. 8. State for whom Mr. Head acted, if for any one.

(Objected to as incompetent.)

Ans. He acted for Mr. Archbold, if for any one.

(Counsel for respondent objects to the answer as incompetent.)

Int. 9. State whether or not Mr. Head examined at that time, the figures and calculation made by you, referred to in your answer to cross-interrogatory one hundred and seventy-seven.

Ans. I think not.

Int. 10. Did you go over the same, that is, the calculation, with him, or merely announce the result?

Ans. I did not go over the calculation with him, and I don't recollect that I announced the result to him.

Int. 11. Did Mr. Head, during that interview, make any calcula-

tions as to the amount of stock due him from Mr. Archbold, to your knowledge?

Ans. No.

Int. 12. State whether or not anything was said or took place, at the interview you have testified to in your answer to cross-interrogatory one hundred and seventy-four, which led you to suppose
132 either Mr. Head or Mr. Archbold considered the same a settlement in full for Mr. Head's commissions for getting up said company.

(Objected to as incompetent.)

Ans. I have no recollection of a word being said upon the subject of a settlement in full.

Int. 13. State what were your reasons, if any, for making the calculation on fifteen per cent. as mentioned by you in answer to cross-interrogatory one hundred and seventy-seven?

(Objected to as inadmissible.)

Ans. The reason that I wanted to get that settlement to that extent was, that I was going immediately away, and that I wanted to get as much of the affair settled as possible. Mr. Archbold and myself were both to leave in the next steamer, and I had reason to believe we could get so much settled without controversy.

Int. 14. State whether or not Mr. Head ever requested you or authorized you to make the calculation referred to by you in answer to cross-interrogatory one hundred and seventy-seven?

(Objected to as incompetent.)

Ans. I have no recollection of any such request.

Int. 15. State whether or not Mr. Archbold, in any of the disputes that occurred in your presence between himself and Head, subsequent to September, 1862, with reference to Head's commissions for getting up said company, ever claimed that he had paid Head in full?

(Objected to as not competent matter on re-examination.)

Ans. I have no recollection of his ever stating anything of that kind.

Int. 16. State, if you know, what the reason was, if any, of Mr. Head's silence, as testified to by you in answer to cross-interrogatory two hundred and twenty.

(Objected to as inadmissible, and also for form.)

Ans. There was a difference of opinion between the stockholders of the Glace Bay Company in relation to certain back leases so called. Mr. Archibold had sold stock to certain parties in Halifax, and when the question about these back leases was agitated, I found there was some considerable feeling among the parties in Halifax against Mr. Archbold, in regard to his saying nothing about this matter of these other interests, and I was apprehensive that the bringing in
133 of these back leases and incorporating them with the Glace Bay Company would be injurious to its interests. It was probably owing to my suggestions to Mr. Head that he said nothing about this matter to Mr. Archbold.

Int. 17. In your answer to cross-interrogatory two hundred and twelve, you state that you were not aware Mr. Head was going to

make a demand on Mr. Archbold at that particular time. State whether or not you knew that Mr. Head intended to demand the additional stock of Mr. Archbold, and when you first became aware of the same?

(Objected to as incompetent.)

Ans. In October of 1862, having left Boston, immediately after the settlement in September, 1862, or the payment of stock at that time, I think the latter part of October, I saw Mr. Head at Cape Breton. [He said to me, almost immediately after our meeting together, that Archbold had not paid him all the stock he was entitled to receive.] What I meant to say in the interrogation there referred to was, that they came in unexpectedly at that time: [not that I was surprised in the demand of Mr. Head, as he had expressed to me his intention of making that demand, both in October above referred to, and frequently afterwards.]

(Counsel for respondent objects to all the foregoing answer inclosed in brackets as inadmissible.)

Int. 18. In your answer to cross-interrogatory two hundred and twelve you state that the demand there referred to of Mr. Head upon Mr. Archbold took you by surprise. What do you mean by the expression "it took me by surprise"?

(Objected to as incompetent.)

Ans. I meant to say that their coming in at that particular time was unexpected by me.

Int. 19. In your answer to the two hundred and forty-fifth cross-interrogatory you state that you were afraid of a lawsuit or delay in reference to your contract with Mr. Head. State whether or not you anticipated at the time any more difficulty with him than you would with any business man under like circumstances.

(Objected to as inadmissible.)

Ans. I did not.

Int. 20. State whether or not Mr. Archbold expressed him-
134 self as willing to sign the agreement mentioned by you in answer to cross-interrogatory two hundred and sixty-five.

(Objected to as incompetent, and as leading.)

Ans. I don't recollect.

Re-cross examination by counsel for respondent:

Cross-int. 1. Give the names of any persons, and their places of residences, whom you ever heard speak of Mr. Head's general reputation as a business man, and state what, if anything, they each said about it, and give the places where such statements were made.

Ans. It is quite impossible for me to answer such a general question as that, as I don't recollect every man I meet in the course of one day even, nor all that is said to me; nor can I recollect all the persons that have said anything to me about Mr. Head; but I can recollect some persons who have expressed opinions about Mr. Head; Mr. Harvey Rice, of Springfield, Ohio, I think; Hon. Albert Smith, of Boston; Mr. Horatio Bigelow, of Boston; Mr. William Hayward, of Boston, and probably others.

Cross-int. 2. Did you not make out the account of the work done by Mr. Head, mentioned in your answer to the fourth re-direct interrogatory, at the request of Mr. Head?

Ans. It was not at the request of Mr. Head, as he and I, at that time, had no communication together.

Cross-int. 3. What led you to make it out, and what did you do with it when made?

Ans. I think I was led to make that out at the request of Mr. Archbold or some of the associates who were at Glace Bay at that time, and I gave it to Mr. Archbold, as the agent of the company, as I did all other vouchers that I approved.

Cross-int. 4. What has become of the figures made by you at the time of the payment of stock by Mr. Archbold, in September, 1862?

Ans. I don't know.

Cross-int. 5. Are they in existence? and, if not, when and where did you last see them? and state what those figures were.

Ans. I don't know whether they are in existence or not; they are not, to my knowledge. I have no recollection of seeing those
135 figures, if I made any, other than the memorandum referred to before, since the time when they were made. I can't state what they were.

Cross-int. 6. What led you to make the calculation and memorandum referred to, if you did not do it in consequence of any express request from Mr. Head?

Ans. The proposition of Mr. Archbold to pay stock at that time and my desire to get my proportion of it.

Cross-int. 7. Did you not do this because you and Head were jointly interested in the commissions to be received from Mr. Archbold?

Ans. We were jointly interested, and I think that had an effect upon my conduct at that time.

Cross-int. 8. Was the nature, object, or effect of the settlement discussed at all in the presence of Mr. Archbold on that occasion?

Ans. I recollect no discussion.

Cross-int. 9. Was anything said to him by you, or by Mr. Head, in your presence and hearing, on that occasion, as to the nature, object, or effect of that settlement?

Ans. Not to my recollection.

Cross-int. 10. Why did you fix on fifteen per cent. in the calculation you then made?

Ans. I don't recollect why, further [than as] before testified.

Cross-int. 11. When did the difficulties about the "back leases," mentioned in your answer to the sixteenth re-direct interrogatory terminate?

Ans. I think in the winter or spring of 1864.

Cross-int. 12. Had Mr. Head anything to do with those difficulties, or any connection with the persons at Halifax to whom Mr. Archbold had sold stock, as mentioned in your answer to the sixteenth re-direct interrogatory?

Ans. Mr. Head was a stockholder in the Glace Bay Company, and in that capacity was connected with the controversy, but in no other way than as one of the stockholders of the company.

136 SATURDAY, *Jan.* 13, 1865.

(Upon reading the foregoing deposition to the witness, he desires to correct his answer to cross-interrogatory two hundred and seven, so that the first sentence shall read, " the first time after the delivery of the stock," etc.)

WILLIAM P. PARROTT.

Deposition of George Hughes.

FRIDAY, *Jan.* 12, 1865.

Int. 1. Please state your name, age, residence, occupation, and place of business.

Ans. My name, George Hughes; age, fifty-five years; reside in Boston; occupation, merchant; my place of business is at 31 Lewis wharf.

Int. 2. State whether or not, in May, 1861, you wrote to Messrs. Archibald & Co., of Sidney, making inquiries with reference to the Glace Bay coal? If yea, have you a copy of said letter, and will you annex it to your deposition?

Ans. In May, 1861, May 28, 1861, I wrote to Archibald & Co., of Sidney, with reference to the Glace Bay coal; a copy of that letter is annexed to this deposition, and marked "U, C. W. T., U. S. com."

Int. 3. Please state at whose request these inquiries were made.

Ans. These inquiries were made at the request of William P. Parrott.

Int. 4. State whether or not you ever received any reply to your said letter. If yea, will you produce the same, or a copy thereof, and annex it to your deposition?

Ans. I received a reply to that letter, and it is annexed to this deposition, and marked "V, C. W. T., U. S. com."

Int. 5. Please state by whom said letter was handed to you.

Ans. Mr. E. P. Archbold.

137 Int. 6. State whether or not you know E. P. Archbold, the defendant in this case. If yea, when and where did you first meet him, and by whom was he introduced to you, if by any one?

Ans. I know E. P. Archbold, the defendant. I first saw him on his presentation of the letter of introduction from Archibald & Co., which is annexed, and marked "V, C. W. T., U. S. com." I think that Mr. F. H. Odiorne came with him, but not to introduce him particularly; his letter from Archibald & Co. was his introduction. This was at my office, 31 Lewis wharf, Boston. It was somewhere about the 12th or 15th of June, 1861, I should think.

Int. 7. Please state all that occurred at the interview referred to in your last answer, as near as you can recollect.

Ans. Mr. Archbold presented his letter, and, in reference to the inquiries I had made, I told him they were made for another party and not for myself; that I would introduce him to the party who desired me to write. To this he replied that he had already been introduced; by whom he did not tell me. I don't know that I can say anything more, unless I go out of this record—I mean in answer to this question.

Int. 8. Please state whether or not you ever introduced Mr. Archbold, the defendant in this case, to W. P. Parrott, of Boston.

Ans. Not to my knowledge or recollection.

Cross-examination:

Cross-int. 1. Is said William P. Parrott your brother-in-law?

Ans. Yes.

Cross-int. 2. How long had you known the said firm of Archibald & Co., and what was their commercial standing?

Ans. Well, about thirty years; their standing was very high.

Cross-int. 3. Does it continue to stand very high?

Ans. Yes.

Cross-int. 4. Were you acquainted with Stephen H. Head, the complainant in this suit, at the time when your said letter to Messrs. Archbold & Co. was written, or at the time when E. P. Archibald, the defendant, presented his said letter of introduction to you?

Ans. I was not.

GEO. HUGHES.

Second deposition of William P. Parrott.

138 WEDNESDAY, *March* 28, 1866.

(Counsel for respondent here objects to the examination of this witness in behalf of the complainant.)

Int. 1. Please state your name, and whether or not you have given a previous deposition in this case.

Ans. My name is William P. Parrott, and I have given a previous deposition in this case.

Int. 2. Please state whether or not, in October or November, 1861, you had any office in Boston.

Ans. Yes.

Int. 3. Where was the same?

(Objected to.)

Ans. At 40 State street, in the fourth story of the building.

Int. 4. How many rooms did your said office consist of?

(Objected to.)

Ans. One only.

Int. 5. State whether or not you were present some time during the month of September, 1862, when certain certificates of stock in the Glace Bay Mining Company were given by E. P. Archbold to Stephen H. Head, the complainant, in your office.

(Objected to, generally: and because the witness was asked by complainant and answered this question on his previous examination.)

Ans. Yes.

Int. 6. How long did Mr. Archbold remain in your office at that time?

(Objected to as before.)

Ans. A short time only. I should say less than a quarter of an hour.

Int. 7. State who was present at that time, and whether or not they were sitting or standing, each of them.

(Same objection as to the fifth question.)

139 Ans. I recollect that Mr. Head and Mr. Archbold were present at that time. I have no recollection that any of us were seated; as I have before stated, we were much engaged about other matters.

Int. 8. State whether or not when Mr. Archbold came in at that time, or during his stay at your office, at that time, he placed upon your table the certificates for seven hundred and fifty shares of stock in the Glace Bay Mining Company, and "told you and Head to take your certificates."

(Same objection as to the fifth question; and because on his previous examination, the witness was interrogated by the complainant fully, as to the circumstances of this whole transaction.)

Ans. I have no recollection as to the precise words used. My best recollection is the certificates were handed to Mr. Head.

Int. 9. State whether or not Mr. Archbold, at that time, handed you or Head, seven or eight certificates of stock in the Glace Bay Mining Company, and "told you and Head to select what was due you out of the batch."

(Same objection as to the eighth question.)

Ans. I have no recollection of any such remark being made.

Int. 10. State whether or not Mr. Archbold, at that time, handed to you or Head, seven or eight certificates of stock in the Glace Bay Mining Company.

(Same objection as to the eighth question; and because this question has already been put to the witness on his present examination.)

Ans. I have already stated in my former examination all that I can recollect in regard to the delivery of the stock and as to the number of certificates.

Int. 11. State whether or not you selected from the certificates brought in by Mr. Archbold, certain certificates of said stock, and handed them to Mr. Archbold to make the transfer upon them.

(Same objection as to the eighth and tenth questions.)

Ans. I did not.

Int. 12. State whether or not Mr. Archbold signed his name in your office, at the time inquired of in the preceding interrogatories, to any transfer or transfers of certificates of stock in the Glace Bay Mining Company.

(Same objection as to the 8th question.)

Ans. He did not. [The certificates were endorsed when they were brought into the office.]

140 (Counsel for respondent objects to the answer included in brackets.)

Int. 13. State whether the transfer upon the certificates of stock, brought into your office at the time inquired of in the preceding questions were in blank or signed.

(Same objection as to the 8th question.)

Ans. There was a blank form of transfer on the back of the certificate. This was left in blank, but Mr. Archbold's name was signed on the back of the certificate.

Int. 14. State whether or not Mr. Archbold at the time inquired of in the preceding question, brought to your office and exhibited to you the certificates of all the stock issued to him by the Glace Bay Mining Company?

(Objected to as in the 8th question; as also as otherwise incompetent and immaterial.

Ans. No.

Int. 15. State when you first learned that Mr. Head was going to demand additional shares of stock in the Glace Bay Mining Company, of Mr. Archbold.

(Objected to as generally inadmissible, and as having been asked by complainant and answered by the witness on his previous examination.)

Ans. The latter part of October or the first of November, 1862.

Int. 16. State whether or not you then advised Mr. Head not to make such demand at that time, or requested him to delay his demand against Mr. Archbold.

(Objected to as incompetent and because the witness on his previous examination was interrogated upon this point by the complainant, and testified regarding it.)

Ans. I recommended Mr. Head not to say anything about it at that time, because I was under the impression that the whole stock had not been issued. I knew it had not been to the associates, and I supposed it was also the same with regard to Mr. Archbold's proportion.

(Counsel for respondent objects to the whole of the preceding answer.)

Int. 17. State what your reasons were, if any, for so recommending him not to press his demand.

(Same objection as to the sixteenth question.)

Ans. I had supposed that all the stock had not been issued to Mr. Archbold; and I had supposed the amount paid in Boston was

141 a partial payment, as no receipts were passed or asked for, and I believed Mr. Archbold would fulfil any contract he had made.

(Counsel for respondent objects to this last answer.)

Int. 18. State whether or not subsequent to the time referred to by you in answer to the twenty-sixth question Mr. Head consulted with you as to his demand for additional stock from Mr. Archbold?

(Same objection as to the sixteenth question.)

Ans. He spoke to me about it often.

(Counsel for respondent objects to this answer.)

Int. 19. State whether or not at the times referred to by you in your last answer you advised Mr. Head in reference to his manner of proceeding in regard to said demand; if yea, how did you advise him?

(Same objection as to the sixteenth question.)

Ans. Mr. Head spoke to me very frequenty about this thing, as I have before said; and there were matters connected with the interest of the company which I considered more important than this to have settled. After those were arranged, I have no recollection that I said anything to Mr. Head in relation to his making application to Mr. Archbold for this balance of stock. Until the settlement of the matters above referred to I advised him to keep quiet in the matter.

Int. 20. State what depositions taken in this suit, if any, you have read or heard read.

Ans. I have read and heard read my own. I saw the answers to one or two questions in the deposition of Mr. Hughes.

THURSDAY, *March* 29.

Cross-examination, de bene esse:

Cross-int 1. What was the number of the office in the building numbered 40, in State street, which was occupied by you in October and November, 1861?

Ans. I think it was 24, but am not positive; that is my recollection.

142 Cross-int. 2. Were there any doors in said office communicating with other rooms in the building?

Ans. There was a closet in the room with a wash-basin in it, and there was a door from this closet into another room, so that the closet was common to two rooms.

Cross-int. 3. By whom was the room between which and your office this communication existed occupied at that time?

Ans. The room was empty all the time I was in State street so far as I know.

Cross-int. 4. Were you in the habit of using that room for any purpose?

Ans. I recollect of none, unless some of my station poles were there; but I think they were not, because I had a rubbish room in the attic.

Cros-int. 5. How many times was Mr. Archbold in your office during the day, in September, 1862, on which he delivered two hundred and twenty-five shares of Glace Bay mining stock?

Ans. I don't recollect exactly how many times he was there. I think not more than twice, however.

Cross-int. 6. What were the other matters about which you were engaged, as mentioned in your answer to the seventh direct question?

Ans. They were private matters of my own. I was getting ready to go to Cape Breton, and Mr. Archbold was to go with me at the same time; and we both went the next day; I think it was the next day.

Cross-int. 7. How were you able to recollect that the assignments upon the certificates delivered by Mr. Archbold on that occasion were not signed by him in your office? Do you mean to swear that you have a positive recollection on this point?

Ans. The fact which helps my recollection in the matter is, that these certificates were handed to Mr. Head in my middle office. In that office there were no materials for writing. It was occupied by a drawing table. Mr. Head and myself stood by that table when Mr. Archbold came in with the certificates. I have no recollection that any of us sat down in the office that forenoon; and I feel as certain as one can feel from recollection, that those endorsements were made before they were brought into my office; and I have no doubt in my mind that such was the fact.

143 Cross-int. 8. Had you not pens and ink in your offices at that time?

Ans. There were in the other office.

Cross-int. 9. Was the door open into the other office at the time, and was Mr. Archbold familiar with the arrangements of your office rooms, had he been in them frequently?

Ans. The door was open between the two rooms. I do not think Mr. Archbold was familliar at that time with these offices, as I had moved from the other side of State street where I was when Mr. Archbold and I had our former interviews, so that I cannot state with certainty how familiar he was with these offices.

Cross-int. 10. How long previous to this occasion did you begin to occupy these particular rooms?

Ans. The 1st of January, 1862. During the time I was at Cape Breton, from March till September, they were closed.

Cross-int. 11. For a week or more, previous to the day on which Mr. Archbold delivered the stock, was he not in Boston and in these rooms of yours very frequently?

Ans. Mr. Archbold was in Boston the week before. I can't say how frequently he was in these rooms. I was there but little myself.

Cross-int. 12. Did you not meet him there frequently during this period, and did not Mr. Head make his headquarters there?

Ans. I met Mr. Archbold sometimes in these offices. Mr. Head was there at times.

Cross-int. 13. Did Mr. Archbold deliver this stock during the forenoon of the day?

Ans. I think it was the forenoon.

Cross-int. 14. Had you seen any of the certificates of the Glace Bay Mining Company stock before Mr. Archbold brought his into the office that day?

Ans. I don't recollect. I had seen the form of the certificate.

Cross-int. 15. In your answer to the sixteenth direct question you state, in substance, that you supposed the whole of Mr. Archbold's stock had not been delivered to him at the time when he delivered the certificates for two hundred and twenty-five shares. Upon what was your said supposition founded?

Ans. From the fact that the stock account was open, that
144 the associates had received but a portion of theirs, and the impression on my mind was that the stock should be issued pro rata.

Cross-int. 16. But were not you, as a director of the said company and as one of the parties to the contract with Mr. Archbold then aware that so far as he was concerned under the contract he was entitled to the entire amount of his stock whenever he had performed his obligation to the company and conveyed his property to them; and that the treasurer of said company had been authorized by the vote of your board of directors to issue to Mr. Archbold certificates for the entire number of shares to which he was entitled under said contract upon the making the said conveyances by him and the acceptance of the same by the company?

Ans. I was aware of the contract with Mr. Archbold, and that he was entitled to the full amount of stock when he had fulfilled on his part the said contract. I am also aware that at that time he had not fulfilled his contract; that a large portion of the mining property was in great jeopardy. I was aware that a conditional vote had been passed to issue the stock to Mr. Archbold when the conveyances had been made, and that he was not entitled to a full amount of his stock at that time.

Cross.int. 17. Did you then suppose that if Mr. Archbold had not complied [with] his contract with the company he was entitled to any portion of his stock; if yea, please state under what provision, either of the contract itself or of any vote of your board of directors, regarding the issue of stock to Mr. Archbold, you supposed him entitled to any portion of the same?

(The last half of the question objected to as calling for new matter and foreign to the issue.)

Ans. I did not examine the contract at that time, nor did I have the papers in my custody other than as a director. As before stated, my impression was that Mr. Archbold had a pro rata payment with the associates, and presumed it was all right.

Cross-int. 18. Upon what did you found the "impression" mentioned in your last answer?

Ans. I presume from the facts, first, that he had received some stock; second, that the contract was not entirely fulfilled.

Cross-int. 19. You have stated that you were aware of the
145 vote of the directors, authorizing the issue to Mr. Archbold of his stock, upon the performance by him of his contract. Will you now state whether, under that vote, you then supposed it possible for Mr. Archbold to obtain any portion of his stock before he had performed those acts upon which the issue of the stock to him depended? and, if so, how you supposed he could entitle himself to claim and receive any part of his stock before he had performed the act necessary to entitle him to the whole of it?

Ans. I have not seen the vote, to my knowledge, since it was passed. To the best of my recollection, that vote was passed to enable the treasurer to make payment to Mr. Archbold of part of his stock, and that the condition applied to a full payment; and I see no

reason why Mr. Archbold should not have received a pro rata proportion with the others.

Cross-int. 20. I have not asked you to give your present recollection of said vote, but do now ask you to state what your supposition or impression was at the time when Mr. Archbold delivered the said stock, upon the points embraced in the preceding question.

Ans. I have no doubt I did suppose he could receive stock under that vote, as it referred rather to a final settlement with Mr. Archbold than to a partial one; and as the vote and issue of stock to him occurred at the same time, or about the same time, and without his going to Nova Scotia, to make conveyances. I am confirmed in this opinion.

Cross-int. 21. Did you suppose at the time when Mr. Archbold made the said delivery of stock that the treasurer of the company was authorized to deliver any stock to Mr. Archbold before he had made the conveyances to the company stipulated in the vote of the directors.

(Objected to because the vote is not produced and shown to the witness; nor has the witness testified that he knows the exact contents; and also, that it is new matter and incompetent on cross-examination, and because no vote is shown to have existed.)

Ans. I had no doubt on my mind at that time that the treasurer was authorized to issue stock to Mr. Archbold. In regard to the vote of the directors, I understood it as applying to the issue of the whole stock, deliverable to Mr. Archbold. Mr. Archbold at that time had made conveyances of a considerable part of the property stipulated to be conveyed in the contract, but not all.

146 Cross-int. 22. From what did you then suppose the treasurer authorized to deliver any stock to Mr. Archbold?

Ans. I considered the vote of the directors authorized the delivery of it.

Cross-int. 23. Did you then suppose that the said vote of the directors conferred authority on the treasurer to issue to Mr. Archbold any stock before he had fully performed his contract with the company, and delivered the deeds mentioned in the said vote?

(Objected to the inquiry about the vote.)

Ans. I considered that vote authorized the treasurer to deliver stock to Mr. Archbold, at that time.

Cross-int. 24. Did you suppose, at that time, that the said vote authorized the treasurer to deliver a single share of stock to Mr. Archbold before he had delivered his deeds to the company and completed his contract with it?

Ans. I did suppose that the treasurer was authorized to issue stock to Mr. Archbold, in part, before the final fulfillment of the contract and the delivery of all the deeds.

Cross-int. 25. Where did you then suppose the treasurer got his authority to do this?

Ans. From the vote of the directors.

Cross-int. 26. How many days, according to your best recollection, before Mr. Archbold made the said delivery of stock, was the vote of your board of directors, referred to in your last answer, passed?

Ans. I think within about five or six days.

Cross-int. 27. Did not you yourself propose the said vote at the meeting of your board?

Ans. I don't recollect distinctly, but I think quite likely.

Cross-int. 28. What per cent. of the stock of the company did you then suppose or believe had been issued to Mr. Archbold?

Ans. I don't recollect distinctly. My impression is, that there was then a delivery of stock to the associates, averaging about fifty per cent. My impression is, that I thought that amount was paid to him at that time, if I thought of it at all as to the amount.

Cross-int. 29. How many shares of the whole amount to be paid to Mr. Archbold, on the fulfillment of the contract on his part, did you then suppose he had received?

147 Ans. I can answer no more definitely than I have answered.

Cross-int. 30. Did you then suppose that he had received the whole of his shares, or only a part of them? and, if only a part, what proportion or number of shares did you then suppose he had received?

Ans. I supposed he had received a part. I have no recollection as to any definite proportion.

Cross-int. 31. Did you then suppose that he had received more or less than fifty per cent. of the whole number to which the contract, upon its completion by him, entitled him?

(Objected to: this question has been twice asked and answered.)

Ans. I can answer no more definitely upon this subject than I have already answered,

Cross-int. 32. Do you mean that you had not then, in fact, any belief or supposition upon the subject inquired of in the last question, or that you do not now recollect what your supposition or belief upon the point then was?

Ans. I refer to my former answers for what my supposition and belief then was. I can answer no more definitely.

Cross-int. 33. Do you refuse to give any other answer to the last question?

Ans. I decline to answer further on the subject, having testified as fully upon that subject as I can.

Cross-int. 34. Are you or not able to state whether or not you at the time when Mr. Archbold delivered the two hundred and twenty-five shares of stock, then believed or supposed that he had received more or less than fifty per cent. of the whole number of shares to which the said contract, when performed, entitled him?

(Objected to as before.)

Ans. I cannot state any more fully than I have before.

Cross-int. 35. I am not aware that you have answered the said question, and now request you to do so. Will you or not answer the last question?

(Objected to as before.)

Ans. I will answer it no more fully than I have, and I refer you to my former answer upon the subject.

Adjourned to Saturday, March 31st, at 10 a. m.

148 SATURDAY, *March* 31*st*.

Cross-examination continued:

Cross-int. 36. What proportion of the amount of stock subscribed for by the associates had been issued to them at the time in September, 1862, when Mr. Archbold delivered the two hundred and twenty-five shares?

Ans. I don't recollect; the records will show.

Cross-int. 37. Please give your best recollection on this point.

(Objected to.)

Ans. I have no recollection; I don't know that I ever knew.

Cross-int. 38. Had you or not, as one of the said associates, yourself then received any proportion of the stock subscribed for by you?

Ans. That I don't recollect. I should have to refer to the accounts to ascertain.

Cross-int. 39. Did you not, in your former deposition in this suit, testify that at the time in September, 1862, referred to, the treasurer had been authorized to deliver to the associates forty per cent. of the amount of stock subscribed for by them?

Ans. I don't recollect the whole of that deposition. It was my impression, and is now, that the treasurer was so authorized, provided the associates had paid up.

Cross-int. 40. Referring to your answer in your present deposition to direct interrogatory numbered sixteen, state whether you then, in September, 1862, believed or supposed that Mr. Archbold had received only the same proportion of his stock.

Ans. I had no impression or belief as to the precise amount of stock received by Mr. Archbold. I have already stated that I knew Mr. Archbold had received some stock; how much I did not know, but my impression was, as before stated, that he had received but a part.

Cross-int. 41. State what you then supposed, or believed, was the proportion of his stock which Mr. Archbold had receved in comparison with that issued to the associates.

Ans. I have already stated that I had no definite or comparative idea, further than the parties had received a ratable proportion, as before stated; that is, Mr. Archbold and the associates.

149 Cross-int. 42. If the fact had been that Mr. Archbold had then received only the same proportion of his stock that the associates had received of theirs, that is, forty per cent., would not Mr. Archbold then have had just three hundred shares of the stock?

(Objected to the question as argumentative, and asks the witness a deduction from the question itself; and also irrelevant and leading.)

Ans. This is a matter of calculation.

Cross-int. 43. Will you be so good as to make the calculation?

Ans. I decline.

Cross-int. 44. What do you "decline?"

Ans. I decline to make calculations, or do any other thing than to testify in this case.

Cross-int. 45. Are you not competent and able to answer the forty-second cross-interrogatory?

Ans. I presume so.

Cross-int. 46. Do you refuse to answer it?

Ans. I refuse to make any calculations.

Cross-int. 47. Do you refuse to make any other or further answer to the forty-second cross-interrogatory?

Ans. Yes.

Cross-int. 48. Did, in fact, your supposition or belief, whatever it was, as to the amount of stock received by Mr. Archbold, have anything to do with the fixing by you of fifteen per cent. as the amount to be paid by Mr. Archbold on the day in September, 1862, when he delivered this amount of stock?

Ans. I did not fix the amount of fifteen per cent. I have no recollection that the amount of stock received by Mr. Archbold had anything to do with that transaction further than as to the amount delivered to Mr. Head.

Cross-int. 49. What connection, if any, do you mean, by your last answer, to make between the amount of stock received by Mr. Archbold and the amount by him delivered to Mr. Head?

Ans. What I mean to say is, that Mr. Archbold could not have delivered any stock to Mr. Head until he had received it himself.

Cross-int. 50. Had, in your mind, the amount of stock which you say you then supposed Mr. Archbold had received himself, anything to do in determining the amount to be paid by him to Mr. Head in that transaction?

Ans. Not to my knowledge.

Cross-int. 51. Do you mean or wish to change your testimony, given in your former deposition, as to your motive or purpose in the part taken by you in this transaction with Mr. Archbold, of September, 1862?

Ans. I don't know what is referred to.

Cross-int. 52. Do you not understand the fifty-first cross-interrogatory?

Ans. I don't understand the reason for asking it.

Cross-int. 53. The reason for asking it does not concern you. Will you please answer the interrogatory, if you understand it?

(Objected to; that the above is not an interrogatory pertinent to the case, but a lecture on law to the witness, and irrelevant.)

Ans. I can think of no reason why I should wish to change or alter my former testimony.

WM. P. PARROTT.

Deposition of Albert Smith, esq.

THURSDAY, *March* 29, 1866.

Int. 1. Please state your name, age, residence.

Ans. My name is Albert Smith; age, seventy-three years and three months; my residence is now in Boston.

Int. 2. Do you know the parties to this suit?

Ans. I only know the complainant, Stephen H. Head.

Int. 3. How long have you known him, and what opportunities have you had for observing his acquirements and capacities for business in engineering and mechanics?

(Objected to as irrelevant.)

Ans. I have known him about twenty years; it may be a year more or a year less. I employed him upon the northeastern boun-
151 dary survey, of which I was the commissioner on the part of the United States, under the so-called Ashburton and Webster Treaty, as an assistant engineer and surveyor, in 1845, according to my best recollection. In that capacity he performed his duties to my entire satisfaction. For one of his years, I considered him a man of extraordinary capacity and energy. From that period to this time he has not been under my personal observation, and I have only known him as a common acquaintance. He has frequently consulted me in regard to machinery, engines, boilers, and the like, with reference to their being introduced upon railroads and in government shops. I now call to mind particularly an invention for consuming the smoke on locomotive engines. My impression is, that he got it patented; but of this I am not certain. My opinion of his capacity as an engineer and machinist was such, that I recommended him to the Navy Department for appointment as inspector of boilers for United States steamers manufactured by outside contractors; and my confidence in him as a man of business capacity, who would be likely to accomplish what he undertook, may be inferred from the fact that shortly before he went to the British provinces for the purpose of exploring for and examining mines, I loaned him five hundred dollars upon his simple promise, on his word of honor, to refund it when he was able.

(Answer objected to as irresponsive and incompetent.)

Int. 4. About the middle of 1861, did Mr. Head apply to you concerning coal property in Nova Scotia?

(Objected to as irrelevant.)

Ans. I do not remember the year, but I remember the fact that he did ask my opinion in regard to that matter, very shortly before he went there; and I introduced him to my son-in-law, Horatio Bigelow, whose principal occupation is mining operations of all descriptions; and recommended him to Mr. Bigelow as a man to be implicitly relied on. Mr. Bigelow is now in Europe.

(Answer objected to, by counsel for respondent, as irresponsive and incompetent.)

Cross-examination, de bene esse.

Cross-int. 1. Please state what is and has been your profession since your acquaintance with Mr. Head begun.

152 Ans. My profession is that of counsellor-at-law; and my occupation, since my acquaintance with Mr. Head, has been, as commissioner on the part of the United States, as before stated, the duties of which occupied me seven years, five years of which time I was principally on the northeastern boundary line; since which, my occupations have been various, in Washington and in this city.

Cross-int. 2. What duties had Mr. Head to perform in connection with the northeastern boundary survey, and what do you personally know of the work actually performed by him in that service?

Ans. As I said before, Mr. Head was employed as an assistant engineer and surveyor; his duties required him to assist in running lines scientifically, exploring the routes for running such lines, and making a general survey of the country, including its topography and geology. Sometimes I assigned to him parties to make surveys independently, [which I did upon the recommendation of the engineers under whom he served.] My personal knowledge of the work he performed was derived principally from the reports of the engineers under whom he served.

(Counsel for respondent objects to all the above answer inclosed in brackets as irresponsive.)

Cross-int. 3. Did you personally superintend Mr. Head's work, or was it under the direction of the engineers employed on the survey?

Ans. Whenever I sent Mr. Head upon an independent survey, I often went upon the line when he was at work, at which times there was no engineer over him. At other times his work was personally superintended by a principal engineer.

Cross-int. 4. Did you ever see Mr. Head while employed upon the said survey, in the use of the surveyor's compass or theodolite, or see him make any engineering or surveying plans or mathematical calculations?

Ans. I did. He was furnished with a surveyor's compass and chain for his use and that of his party. I have seen him use such compass in running a line. He would make a rough plotting of the line which he would return to me. This was never on the principal boundary line as laid down by the commissioners under said treaty, but upon side lines necessary for marking said principal lines.

Cross-int. 5. Were not these sides lines sometimes run by
135 Mr. Head as you have testified, merely straight lines run at right angles with the said side lines?

Ans. They were so far as my recollection goes.

Cross-int. 6. Was Mr. Head, to your knowledge, master of the mathematical knowledge requisite to qualify a civil engineer and land surveyor, in the practice of his profession?

Ans. At that time, I think he was not; although he could reduce the survey of a line to a small scale on paper. He had very little experience at that time as engineer.

Cross-int. 7. How long was he employed on this survey?

Ans. My impression is, that it was two seasons of seven months each, or thereabouts.

Cross-int. 8. Was he quick at figures?

Ans. I have never seen him perform any operation with figures.

Cross-int. 9. Since the time when he ceased to be employed on the said survey what has been his occupation?

Ans. I only know from the reports of others, except till within the last five or six years.

Cross-int. 10. Have you known of his being a journeyman boiler-

maker by trade; or is all your knowledge of his occupation within this period derived from hearsay?

Ans. I have no knowledge of his having been a journeyman boiler-maker; and my knowledge of his qualifications as boiler-maker is derived from others and from conversation with himself and from examination of boilers with him.

Cross-int. 11. Has he, within the period of your acquaintance with him, previous to 1861, been a broker or engaged in the business of interesting capitalists in the formation of joint-stock associations or chartered companies?

Ans. Not to my knowledge.

Cross-int. 12. Did he obtain the appointment of inspector of boilers, for which you recommended him, as stated in your answer to the third direct question?

Ans. I think he did not. That duty was and is performed by the regular engineers of the navy; but the department had power to appoint civilians, if they choose.

ALBERT SMITH.

154 *Proofs for respondent.*

SATURDAY, Jan. 27, 1866.

Deposition of Gardiner G. Hubbard, esq.

Int. 1. Please state your name, age, residence, and occupation.

Ans. My name is Gardiner G. Hubbard; age, forty-three years; reside at Cambridge; I am counsellor-at-law.

Int. 2. Are you acquainted with the parties to this suit; and, if yea, how long have you known them respectively?

Ans. I am: the defendant since 1861, the plaintiff since 1862.

Int. 3. Where was your office in 1861, and where is it at present?

Ans. Then, and now, at 39 State street.

Int. 4. Were you one of the parties to the contract entered into with the said Edward P. Archbold for the purchase of an interest in his mining property at Glace Bay in the Province of Nova Scotia, in the autumn of 1861?

Ans. Yes.

Int. 5. When and how did you first become acquainted with Mr. Archbold's said mining property?

Ans. In July or August, 1861, through William P. Parrott?

Int. 6. State the circumstances, as fully as possible, connected with your becoming interested in the purchase of Mr. Archbold's said property, and the enterprise in which you and others engaged for the improvement and development of the same.

Ans. Capt. W. P. Parrott called upon me at my office, in July or August, 1861, and asked if I wished to go into an operation of mining coal in Nova Scotia. He said he was acquainted with the character of the coal, having made inquiries in regard to it for the purpose of supplying a large quantity to the government for steam; and
155 that it was also a good gas coal, and was situated near the ocean; that the only difficulty in the way was the want of a good

harbor for shipping it; but he thought one might be made. At first I declined having anything to do with it, but on a subsequent conference, after conferring with my friends, asked him to write to the owner of the mine to ascertain the terms on which he would sell, saying we should not purchase unless we could have a controlling interest. Captain Parrott said he should be willing to take hold of it with us if a harbor could be made. He subsequently told me he had written, and had heard from the owner, and that he was desirous of making an arrangement with us. My associates and Captain Parrott visited the mine, and returned in October, 1861. Subsequently, two or three weeks later, Mr. Archbold visited Boston, and we had many interviews with him. Captain Parrott and Dr. Howe were requested to act as a committee to negotiate with Mr. Archbold; but Captain Parrott, knowing him better, conferred alone with him, and reported to us. He, Captain Parrott, said, he, Mr. Archbold, was unwilling to sell more than one half of his mine; and an arrangement was finally made with us, which was reduced to writing.

Int. 7. What persons were present at the interview aforesaid, first held between yourself and Capt. Parrott on this subject.

Ans. No one but myself and Capt. Parrott.

Int. 8. Did Capt. Parrott, at that interview, furnish you with the name of the owner of the mine, and state whether he had had any conference with him on the subject of selling his mine?

(Objected to as incompetent.)

Ans. I think he did not.

Int. 9. Did he not, at that interview, state to you where the mine was situated?

Ans. I think he said it was near Sidney.

Int. 10. State when and how you first heard of Stephen H. Head, the complainant in this case.

Ans. Subsequent to the execution of the contract, we wished to procure machinery to open the harbor—to make a harbor—Capt. Parrott said he knew of a man who was an excellent mechanic, having been employed as foreman in several large establishments, [and his only difficulty which prevented his having continuous em-
156 ployment was his very violent temper,] but we could do no better than to employ him to look at some machinery for us.

(Counsel for complainant objects to all the foregoing answer inclosed in brackets as irresponsive and irrelevant.)

Int. 11. Who was the person, recommended by Capt. Parrott, referred to in your preceding answer?

Ans. Mr. Head; though I think his name was not mentioned at that time.

Int. 12. When did you first, and where, personally meet Mr. Head?

Ans. I don't know. I may have seen him in the fall of 1861; I certainly saw him early in March, 1862, and was first introduced to him at Glace Bay, in June, 1862.

Int. 13. What induced you, personally, to enter into the contract with Mr. Archbold, which was signed in November, 1861.

Ans. The hope of making money.

Int. 14. Was the enterprise presented to your attention by any other person than Capt. Parrott?

Ans. No.

Int. 15. You have mentioned, in a previous answer, various interviews and consultations as having taken place, regarding this enterprise, between yourself and Capt. Parrott, and your other associate on the one part, and Mr. Archbold on the other, before the contract of November, 1861, was signed—please state whether or not Mr. Head was present at any interview or consultation, upon this subject, during the period mentioned.

Ans. He was not.

Int. 16. State whether or not, Mr. Head was in your office at the time when the said contract was signed; and, if so, whether or not he and Mr. Archbold and Capt. Parrott, after that business was completed, left the office together.

Ans. No.

Int. 17. State whether or not you recollect any circumstances connected with the signing or witnessing of the said contract that serves to fix your memory upon the point of Mr. Head's presence on that occasion, and if so, please state it?

(Objected to as incompetent.)

157 Ans. I think we wanted an additional witness, and I went into another office in the building and got one.

Int. 18. State, if you know, what was done by Mr. Head at the time when he went to Glace Bay, in March, 1862, to assist in making the improvements, and in the work then being done upon the property at Glace Bay, and what was the nature of Mr. Head's employment there at that time?

(Objected to as incompetent and irrelevant.)

Ans. I don't know the object of Mr. Head's going to Glace Bay; he had left work when we arrived; he said he had been bossing the men. I am not certain that was the word used, but it was the idea.

Int. 19. Will you state, if you are able, from what you observed, and from what Mr. Head told you, as to what he had done at Glace Bay, your opinion as to the amount of benefit or advantage to the said enterprise, derived from Mr. Head's employment on the work there at that time?

(Objected to as incompetent and irrelevant, and as calling for the opinion of the witness on matters of which he had no personal knowledge.)

Ans. Nearly as much as any good Yankee overseer.

Int. 20. Please state whether or not, while negotiations were in progress with Mr. Archbold, Mr. Parrott in those negotiations represented to your knowledge yourself and your associates, and conducted them on your behalf?

Ans. He did.

Int. 21. State whether or not these negotiations, or any of them, grew out of any objection on your own part and on the part of your associates, to Mr. Archbold holding one-half of the shares in the pro-

posed company, and whether or not Captain Parrott undertook, in behalf of the associates, to secure from Mr. Archbold a larger interest—a majority interest in the shares for them.

(Objected to as incompetent, immaterial, and as attempting to contradict a witness on a collateral fact brought out in cross-examination.)

Ans. We desired the controlling interest, but Capt. Parrott said he, Archbold, would not sell but half the mine. This protracted the negotiation.

Int. 22. Will you please examine the paper having upon it the endorsement which is in the handwriting of Charles W. Tuttle,
158 esq., U. S. commissioner. "This is the paper identified by Mr. Parrott in his answer to the forty-first cross-interrogatory, C. W. T., U. S. com.," and state, if you know, in whose handwriting the said paper is.

(Objected to as incompetent.)

Ans. I have examined it, and it is in Capt. Parrott's handwriting.

Int. 23. State whether or not said paper was ever in your possession. And if so, state from whom you received it.

(Objected to as incompetent and irrelevant.)

Ans. It has been in my possession. I can't say from whom I received it. [Capt. Parrott, when at Glace Bay, made careful examination of the Little Glace Bay brook, and the bar at its mouth, for the purpose of making an estimate of the cost of making the harbor; this was in the fall of 1861. After his return he made an estimate of the cost, and this is the result.]

(Counsel for complainant objects to all the answer in brackets as irresponsive and incompetent.)

Int. 24. State whether or not, to your knowledge, Captain Parrott visited Glace Bay and made personal examination as to the work required under the contract with Mr. Archbold, and on his return made and presented to yourself and your associates an estimate of the cost thereof; and if so, whether or not the paper referred to in interrogatory twenty-two embraces the said estimate, if any?

(Objected to as incompetent and irrelevant, and as attempting to contradict a witness on a collateral fact brought out on cross-examination.)

Ans. Capt. Parrott's visit was made before the contract. I only know of the visit from what he and others told me. This paper is his estimate, as before stated.

Int. 25. State whether or not, before the said contract with Mr. Archbold was signed, Capt. Parrott made any representation to the associates as to whether there would be, under said contract, any profit to the associates arising from the cost of the work required by the said contract; and if so, state all that he said to them in your presence and hearing on that subject.

(Objected to as before.)

Ans. Capt. Parrott represented to us that, in his opinion, there would be a considerable profit to be divided among us. I cannot recollect all he said upon that point.

159 Int. 26. State whether or not Capt. Parrott, when negotiating with the associates for the compensation to be paid by them to him for going to Glace Bay as engineer, in the winter or early spring of 1862, gave any reason for asking the sum he desired as a compensation for that service? If yea, please state what he said on that point.

(Objected to as before.)

Ans. I think he said he had received no compensation for making a contract for us, in which we all were equally interested. I may be mistaken on this point; but think I am not.

Int. 27. Please state whether or not, after Mr. Head had become a stockholder in the Glace Bay Mining Company, you asked Capt. Parrott how Mr. Head had obtained his stock; and if yea, state what reply, if any, Mr. Parrott made to your question.

(Objected to as before.)

Ans. Capt. Parrott or Mr. Head said he bought it of parties in Nova Scotia. I think it was Mr. Head so stated.

Int. 28. State whether or not Capt. Parrott, at any time before the contract was signed, to you and your associates, said that he had conferred with Mr. Archbold, and that Mr. Archbold refused to give better terms to the associates than those contained in his original proposition.

(Objected to as before.)

Ans. He did not.

Int. 29. Did he say anything upon the subject; and if so, what?

(Objected to as before.)

Ans. He did; Mr. Archbold would not vary from the proposition of his interest in the mine which he would convey, but would make concessions on other points.

Int. 30. Did Capt. Parrott ever say to you that he knew that the associates would have the control of a majority of the stock, if they entered into the proposed contract with Mr. Archbold? Did he ever say this in substance, in answer to your objection to engage in the enterprise without such a controlling interest in the stock?

(Objected to as before.)

Ans. He never said or intimated anything of the kind.

Int. 31. Did Stephen H. Head, the complainant, ever do or say anything that contributed in any degree to induce you to enter into the contract with Mr. Archbold, of November, 1861, or to
160 interest you in the enterprise contemplated by said contract, in any way, or at any time?

Ans. We never heard of him until after the contract was signed.

Cross-interrogatories proposed by M. E. Ingalls, esq., of counsel for complainant, de bene esse:

Cross-int. 1. Did you ever see S. H. Head before March, 1862? If yea, how often, when, and where?

Ans. I never saw him to know him.

Cross-int. 2. Who were the friends referred to by you in answer to the sixth direct interrogatory, with whom you state that you consulted?

Ans. Messrs. Howe, Emery, and Converse.

Cross-int. 3. When and where did you first see the respondent in this case?

Ans. In the fall of 1861; at my office, I think.

Cross-int. 4. How many conversations did you have with Parrott as to you and your associates having the controlling interest, as stated in your answer to the sixth direct interrogatory? When, and where, were they had?

Ans. Two at least, in August, 1861; two or more in the fall of 1861.

Cross-int. 5. Were these two interviews had by you in August, before or after you requested Capt. Parrott to write to the owner of the mine for further information, [as] stated by you in answer to the sixth direct interrogatory?

Ans. One before, and the other at the time I requested him to write.

Cross-int. 6. Did you ever talk with Archbold as to the controlling interest? If yea, when and where?

Ans. I may have, but do not think I did.

Cross-int. 7. Did Parrott ever say to you that Archbold desired the controlling interest?

Ans. He never did.

Cross-int. 8. Were you present when Capt. Parrott reported the result of the conferences, as stated in answer to the sixth direct interrogatory?

Ans. I think I was—all.

Cross-int. 9. What other persons were present at each time?

161 Ans. Messrs. Howe, Emery, and Converse were present at most, if not all. No other parties excepting the clerk, and perhaps persons coming into the office.

Cross-int. 10. Where were the reports made?

Ans. The meetings were all held in our offices, 39 State street. Mr. Emery's, Dr. Howe's, and Mr. Converse's offices communicating with mine.

Cross-int. 11. How many times did he so report?

Ans. Quite a number of times—say six or eight.

Cross-int. 12. How many meetings were you present at when such reports were made?

Ans. I think as many as are above-named.

Cross-int. 13. What induced you to yield the controlling interest?

Ans. We understood that Mr Archbold was the sole owner of the other half. We were all to be directors in the company to be formed, which necessarily gave us the control while the stock was equally divided.

Cross-int. 14. Then you had the controlling interest, after all, in the company, did you not?

Ans. We controlled the management, without controlling the interest.

Cross-int. 15. Who first suggested this way of obtaining control of the company?

Ans. I think I did, but am not positive.

Cross-int. 16. Where and when did you first hear of this manner of obtaining control of the company?

Ans. Shortly before concluding our contract, at Boston, in November, 1861, at our offices.

Cross-int. 17. Did Mr. Head look at any machinery for you and your associates?

Ans. Yes. He examined for us a dredging machine at South Boston, and, I think, superintended finishing the same immediately after our contract was signed. I think he went to New York for us on the same business.

Cross-int. 18. Did you ever talk with him about machinery previous to March, 1862?

Ans. No, not to my knowledge. I may have spoken with him while with Mr. Parrott, without knowing who he was.

162 Cross-int. 19. Do you know how much care or attention Head gave to the machinery?

Ans. I believe he gave a good deal of care to it.

Cross-int. 20. What machinery was obtained by him, if any?

Ans. None, I think. He and Capt. Parrott, I think, examined machinery. Capt. Parrott reported to us, and we all agreed upon a purchase.

Cross-int. 21. Was Mr. Head at the mines when the machinery was put up at the mines?

Ans. He was.

Cross-int. 22. In your answer to the fifteenth direct interrogatory, do you refer to all the interviews of the associates, or only those at which you were present?

Ans. I refer to all.

Cross-int. 23. Were you present at all the interviews of the associates?

Ans. I think I was.

Cross-int. 24. Was any record made of these interviews?

Ans. No.

Cross-int. 25. How do you know, then, that you were present at all these interviews?

Ans. I do not; but I have no doubt that I was.

Cross-int. 26. When was your attention first called to the subject of who were present at these interviews of the associates, which you have testified to, since 1861?

Ans. I think in March, 1862. I may be mistaken.

Cross-int. 27. Who called your attention to it at that time?

Ans. I went to see Capt. Parrott off for Glace Bay in the steamer which sailed from East Boston for Halifax and Liverpool, and there saw that another person went with him to whom I was not introduced. I described his appearance to Mr. Converse, I think, and we concluded that it was Mr. Head. We then conversed as to the reason of his going, and expressed surprise that Capt. Parrott should take a man who had no interest without consulting us. I think the matter of his presence was not otherwise discussed.

Cross-int. 28. From what circumstances did you and Mr.
163 Converse conclude that the gentleman you saw with Capt. Parrott at East Boston was Mr. Head?

Ans. Mr. Converse had seen him, and the next day I saw his name in the paper as a passenger on the steamer.

Cross-int. 29. Was your interview with Mr. Converse, at which you came to the conclusion that the person with Capt. Parrott was Mr. Head, before or after you saw in the paper the departure of Mr. Head in the steamer?

Ans. Before the paper we conversed in regard to it. From my description of the person he thought it was Mr. Head; and when we found his name in the paper we knew our conclusion was correct.

Cross-int. 30. When next, if at all, was your attention called to the subject-matter inquired of in the fifteenth direct interrogatory, previous to this examination?

Ans. I think in the summer of 1863, when we first learned he (Head) had received a commission from Mr. Archbold.

Cross-int. 31. Who was present at the time referred to in your last answer?

Ans. Mr. Emery, Mr. Converse, and myself, I think.

Cross-int. 32. Who did Mr. Head make the remark to that he had been bossing the men, as stated in your answer to direct interrogatory eighteen?

Ans. I think it was in the office of the company at Glace Bay, when we were all together, viz: Capt. Parrott, Mr. Archbold, and my associates, Messrs. Howe, Emery, and Converse; possibly Mr. C. C. Little might be there.

Cross-int. 33. What conversation produced this answer? State fully.

Ans. Capt. Parrott and Mr. Head lodged in the same shanty in which the office was; and we took one or two meals with them. The day was rainy on which we arrived, and Capt. Parrott and Mr. Head spent the afternoon and evening giving us an account of the work and the difficulties they had experienced, owing to the ignorance of the men and the want of materials. Mr. Head told what he had done.

Cross-int. 34. Do you know what work Head did at Glace Bay? State fully each part or parcel of work he did.

Ans. The last work he did was superintending the running
164 of the dredge; before, superintending its construction; and before that, collecting materials required for the work.

Cross-int. 35. Did you, in your answer to direct interrogatory eighteen, state all the facts on which you formed your opinion which you gave in answer to direct interrogatory nineteen?

Ans. No. I also formed my opinion from what Capt. Parrott and Mr. Archbold told me, and from my subsequent acquaintance with Mr. Head.

Cross-int. 36. You did not, then, form said opinion from your own personal knowledge and examination, did you?

Ans. No.

Cross-int. 37. Are you an engineer or a mechanic?

Ans. No.

Cross-int. 38. When, where, and how often, were the conversations or negotiations, referred to by you in answer to twenty-first direct interrogatory, had? Who was present at each?

Ans. The interviews, as before stated, were all at our offices, and we were generally all present.

Cross-int. 39. Have you read over, or heard read, William P. Parrott's deposition taken in this case, or a copy of the same? If yea, when, where, and who was present?

Ans. I read a copy of the same at my house; no one was present but my family.

Cross-ans. 40. Do you mean the paper testified to by you in answer to interrogatory twenty-three, was made by Capt. Parrott as the result of his examinations in Glace Bay?

Ans. I do.

Cross-int. 41. How do you know that fact?

Ans. From Capt. Parrott.

Cross-int. 42. Please state when and where Capt. Parrott informed you that this calculation was the result of his personal examination at Glace Bay.

Ans. Shortly before the contract was signed, in the fall of 1861; at our offices.

Cross-int. 43. Who was present at that time?

Ans. I think my other associates.

165 Cross-int. 44. What conversation led to this statement by Capt. Parrott

Ans. Before making any contract we desired to know as accurately as might be, the cost of improvements we proposed making. Capt. Parrott, as an engineer, acquainted with that kind of work, made these estimates. We asked if there was not rock; he replied he had found nothing but mud in his soundings, and had examined for rock, and thought he should find none, except, possibly, in one or two places.

Cross-int. 45. Did Capt. Parrott, immediately after saying this, make the statement, which you have testified to in answer to cross-interrogatory forty-one?

Ans. He made it about that time. I cannot be more precise.

Cross-int. 46. Who asked Capt. Parrott if there was not rock, as stated by you in your last answer.

Ans. Either Mr. Emery or myself.

Cross-int. 47. Can you state which one asked the question?

Ans. I presume both of us.

Cross-int. 48. How came each of you to ask the same question of Capt. Parrott?

Ans. It was a vital question, and one which we must know pretty definitely before making a contract, and as prudent men we should make a point of that kind doubly sure.

Cross-int. 49. Did Capt. Parrott make the same reply to each of you?

Ans. Substantially he did. I think he told me that he went over to Glace Bay a second time to make sure upon that point.

Cross-int. 50. How do you know what answer Capt. Parrott made to Mr. Emery?

Ans. I either heard it, or heard Mr. Emery say he had conversed with Capt. Parrott upon that point.

Cross-int. 51. Are you not sure whether you heard it from him or Mr. Emery?

Ans. No.

Cross-int. 52. What were the identical words used by Capt. Parrott to you?

Ans. I cannot give them. I have stated as accurately as I can.

Cross-int. 53. What month was this?

166 Ans. In October or November, 1861.

Cross-int. 54. What day of the month was it?

Ans. I can't say.

Cross-int. 55. What day of the week was it?

Ans. I can't say.

Cross-int. 56. Have you, within the past three months, had this particular matter inquired of called to your attention?

Ans. I have.

Cross-int. 57. By whom?

Ans. Mr. Muzzey. I, probably, on reading a copy of the deposition, noticed the testimony of Captain Parrott upon that point, and expressed to Mr. Muzzey my surprize at the statement that he, Parrott, derived his Information from Mr. Archbold.

Cross-int. 58. Had you not had this matter called to your attention previous to reading Captain Parrott's deposition?

Ans. I never, until that time, heard that Mr. Parrott based his estimate upon Mr. Archbold's representations.

Cross-int. 59. Have you or not, within the past year, previous to reading Captain Parrott's deposition, had your attention called to the statement of the cost of making the harbor at Glace Bay by Captain Parrott, referred to in your answer to cross-interrogatory forty?

Ans. Yes.

Cross-int. 60. Where, when, and how?

Ans. The paper was in the possession of Mr. Converse, and on obtaining it from him, I think we, Mr. Converse and myself, then spoke of the great difference between the estimated cost and the actual outlay. I presume I mentioned the fact to Mr. Muzzey.

Cross-int. 61. Who obtained it from Mr. Converse?

Ans. Mr. Muzzey desired some papers in the handwriting of Capt. Parrott to compare it with a letter which he supposed he had written.

Cross-int. 62. Who was present at the time Captain Parrott made the representation stated by you in answer to the twenty-fifth direct interrogatory?

Ans. I think Messrs. Howe, Emery, and Converse were all present. Some one may possibly have been absent.

Cross-int. 63. Did not several of the associates express the same opinion at that time?

167 Ans. Mr. Emery, probably, examined Capt. Parrott's figures and concurred with him, but we relied on Capt. Parrott, as our engineer.

Cross-int. 64. How do you know what the other associates relied on?

Ans. We requested Capt. Parrott to make these estimates, for the purpose of having something to rely upon.

Cross-int. 65. Where did the conversations testified to by you, in answer to the twenty-sixth direct interrogatory, take place?

Ans. At my office.

Cross-int. 66. What sum did Capt. Parrott state at that time he desired as compensation for his services?

Ans. I think he said he could leave about the first of March, and must be home by the first of September. For his services during that time, and for what he had done prior thereto, he wished three thousand dollars.

Cross-int. 67. In what month and year was this conversation?

Ans. I think in December, 1861. I may be mistaken in the month and year.

Cross-int. 68. Was this the first you had heard on the subject of Capt. Parrott's conversation?

Ans. It was about that time.

Cross-int. 69. Did you, at the interview testified to in answer to the twenty-sixth direct interrogatory, object to the compensation asked by Captain Parrott?

Ans. I think I did state that it was large.

Cross-int. 70. Was any one but yourself present at the interview testified to by you in answer to the twenty-sixth direct interrogatory?

Ans. No one.

Cross-int. 71. Where and when did Mr. Head make the statement to you, testified to by you in answer to twenty-seventh direct interrogatory?

Ans. I think it was in the fall of 1862, at Boston, either in Mr. Converse's office or in the entry of our building. Capt. Parrott's office being in the story above ours, I often met Mr. Head in the entry.

Cross-int. 72. When did you first hear of this present suit between S. H. Head and E. P. Archbold?

Ans. I think the day or the day after service was made on Mr. Archbold.

168 Cross-int. 73. From whom did you learn it?

Ans. From Mr. Archbold, I think.

Cross-int. 74. Were you not consulted with by him, at that time, as counsel in this case?

Ans. He may have asked me if I would act as his counsel, but I declined.

Cross-int. 75. Have you not been consulted with and advised in regard to this suit, during its progress thus far?

Ans. As a friend of Mr. Archbold Mr. Muzzey has, at a number of times, conferred with me in regard to it.

Cross-int. 76. Did you not prepare drafts of interrogatories to be proposed to William P. Parrott, at the time his deposition was taken in this suit.

Ans. I did.

Cross-int. 77. What are your personal relations, at the present time, with S. H. Head, the complainant in this case?

Ans. They are not unfriendly. I have never had any difficulty with Mr. Head.

Cross-int. 78. Did not Mr. Head, in connection with Capt. Parrott, in 1862, 1863, or 1864, project one or more mining enterprises in the British provinces, in which you desired to take an interest but were refused by them?

Ans. No.

Cross-int. 79. Did you ever apply or request to take an interest in any enterprise or project in which Mr. Head or Capt. Parrott, or both of them, were engaged, since Nov., 1861?

Ans. No, sir.

Direct resumed:

Int. 1. Did Mr. Head ever, to your knowledge, do anything to cause or induce the making of the contract with Mr. Archbold, or aid in the formation of the Glace Bay Mining Company, in any way?

Ans. No.

Int. 2. Have you stated all that Capt. Parrot said to you when he first suggested the employment of Mr. Head on the work at Glace Bay?

Ans. He stated he had worked for Stillman, Allen & Co., New York. I now recollect of nothing else that he said.

169 Int. 3. Did he or not then state that he had himself employed Mr. Head in some mechanical matters?

Ans. I think he said he was interested with him in some arrangement.

Int. 4. Did or not, to your knowledge, Mr. Head ask and receive pay from the Glace Bay Mining Company for the services rendered by him about the machinery, and for the work done by him at Glace Bay?

(Objected to as incompetent and immaterial, and as not a proper way of proving the fact inquired of, if it exists.)

Ans. He did no work for the Glace Bay Company, to my recollection.

Int. 5. Did or not Mr. Head, to your knowledge, ask and receive pay from the associates for his services in connection with the purchase of the machinery, and for his labor at Glace Bay?

(Objected to as before.)

Ans. He did.

Int. 6. At the time when you learned that Mr. Head had received a commission from Mr. Archbold, as stated in your answer to the third cross-interrogatory, did you or not also then learn that Capt. Parrott was a partner with Mr. Head as to said commission?

(Objected to as incompetent on cross-examination and as calling for hearsay.)

Ans. I did not.

Int. 7. When and how, if ever, did you first learn this?

(Objected to as before, and as to form.)

Ans. From reading a copy of Capt. Parrott's deposition.

Int. 8. Have you had any professional employment whatever in this suit, or have your counsel and aid been volunteered from friendship for Mr. Archbold?

(Objected to as incompetent.)

Ans. I have rendered no professional assistance. I have given counsel and advice as a friend.

GARDINER G. HUBBARD.

170 *Deposition of James W. Emery.*

WEDNESDAY, *Feb.* 7, 1866.

Int. 1. Please state your name, age, residence, and occupation.

Ans. My name is James W. Emery; age, fifty years; reside at Cambridge; I am a lawyer.

Int. 2. State whether you are acquainted with the parties to this suit; and if yea, how long have you known them?

Ans. I am; I have known Mr. Archbold since the fall of 1861, and Mr. Head since the summer of 1862.

Int. 3. Where was your place of business in the summer of 1861?

Ans. At 39 State street, Boston?

Int. 4. Were you one of the parties of the second part to the contract entered into with the said Edward P. Archbold for the purchase of an interest in his mining property at Glace Bay, in the Province of Nova Scotia, in the autumn of 1861?

Ans. I was.

Int. 5. State when and how you first became acquainted with the said property of Mr. Archbold.

Ans. I left Boston in September, 1861, with Dr. Estes Howe, Joseph H. Converse, and William P. Parrott, for the purpose of visiting the property at Cape Breton and making an examination of the same, with a view of purchasing the property or an interest in it. We arrived at Sidney in about four days after we left Boston, and went from there to Little Glace Bay, a distance of about seventeen miles. We spent at Little Glace Bay part of each two days in examining the property and the outlet of Little Glace Bay brook, where it was proposed to make a harbor from which to ship the coal.

Int. 6. Who first brought to your attention this project concerning Mr. Archbold's said mining property, and what induced you to enter into the contract with Mr. Archbold, dated November 1, 1861?

Ans. Mr. Gardiner Green Hubbard first named the mining project to me. At the first mention of the matter to me I was not disposed to pay much attention to it. In conversation with Mr. Hubbard at this time he asked me if I would not at least take the trouble
171 to make an examination of the subject-matter so far as to see whether it would not be worth while to visit the property. I told him I would do that. A few days afterwards he brought me a

sketch of the property and the Little Glace Bay brook, and stated to me what he had learned in relation to the same. I agreed or assented then to go with the other gentlemen above-named down to Cape Breton to examine the property above-named. After examination of the property I was induced to enter into the contract, because I thought money could be made out of the business of mining and shipping the coal.

Int. 7. When did Mr. Hubbard ask your attention to this matter?

Ans. I think it was in July, 1861.

Int. 8. When did you go to Glace Bay?

Ans. The latter part of September, 1861.

Int. 9. You have stated that you first became acquainted with the complainant, Mr. Head, in the summer of 1862. Please state how and where you then became acquainted with him.

(Objected to.)

Ans. Messrs. Howe, Converse, Hubbard and I went down to Cape Breton and Little Glace Bay in the summer of 1862. On our arrival at Little Glace Bay I saw Mr. Parrott and with him Mr. Head. That was the first time I ever saw Mr. Head to know him.

Int. 10. Previous to this time had you or not any knowledge of Mr. Head?

Ans. I had not. I had heard his name mentioned.

Int. 11. When and in what connection did you first hear his name mentioned?

(Objected to.)

Ans. After our contract of Nov. 1, 1861, with Mr. Archbold was executed, we had a consultation together in relation to purchasing some machinery for a dredge, and concluded immediately to make a purchase. At that time, or about that time, Mr. Parrott told me that a man by the name of Head, whom he knew, would be a very good person to look up the machinery and see that we got all that we should purchase in good order and condition.

Int. 12. When and how did you first become acquainted with said William P. Parrott?

(Objected to.)

172 Ans. I think while I was acting as agent for the Portsmouth and Concord railroad. Mr. Parrott came down to Portsmouth and called on me, and said he was sent down by Mr. Charles Levi Woodbury, to appraise the rolling stock on that railroad in behalf of the bondholders. I think this was sometime in 1855. Upon reflection, I think I had seen Mr. Parrott once or twice before this, but had no acquainance with him before.

Int. 13. Was the project of purchasing Mr. Archbold's mine, or an interest therein, presented to your attention by any other person than Mr. Hubbard?

Ans. No, it was not.

Int. 14. After the visit made by you and Messrs. Howe, Converse, and Parrott to Mr. Archbold's mine in Sept., 1861, did Mr. Archbold, to your knowledge, come to Boston and consult with you and your associates regarding the said project of purchasing the mine?

Ans. Mr. Archbold came to Boston after our visit and entered into a negotiation with us in regard to our purchasing an interest in his mining property, which lasted from a week to ten days, and resulted in the contract of Nov 1, 1861.

Int. 15. Where were these negotiations carried on and were you or not present at the same?

Ans. The negotiations were carried on in our offices in Boston at 39 State street. I was present most of the time.

Int. 16. What other persons were present at the same?

Ans. Something was said or done by some of us almost every day. Mr. Archbold was occasionally present in some of our offices. Mr. Parrott would frequently come in and talk a little while with me on the subject, and I would occasionally see him talking with some of the other parties subsequently interested. Three or four times we all got together—that is, Mr. Parrott, Mr. Converse, Mr. Hubbard, Mr. Howe, and myself—and held a consultation over or in relation to a proposition made by Mr. Archbold.

Int. 17. Whose offices do you refer to in your last answer?

Ans. There are four offices opening into each other, occupied by Hubbard, Howe, Converse, and myself.

Int. 18. Was or not Mr. Head, the complainant, ever, to
173 your knowledge, in those offices during the time while said negotiations were being there carried on, previous to the execution of said contract?

Ans. He was not there—to my knowledge, at least. I never saw him there.

Int. 19. Did Mr. Head take any part in those negotiations, to your knowledge?

Ans. Not to my knowledge.

Int. 20. Did any consultations upon the subject take place while you and Messrs. Howe, Converse, and Parrott were at Glace Bay, in September, 1861?

Ans. There did, twice or three times, I think.

Int. 21. Was Mr. Head present, or did he take any part in them?

Ans. He was not present at any of them. He never took part in any of them, to my knowledge.

Int. 22. How, if you know, did the associates ascertain the cost of the improvements contemplated under the proposed contract with Mr. Archbold?

(Objected to.)

Ans. While at Little Glace Bay, in September, 1861, I remember that Mr. Parrott and myself were standing on the beach, near the outlet of Little Glace Bay brook. We had some conversation as to what it would cost to convert Little Glace Bay brook into a harbor, so that coal could be shipped therefrom. I estimated one sum, and he estimated a little larger sum, I think. After that time—but the precise time I don't remember—Mr. Parrott made an estimate what the whole improvement would cost. Before he submitted that estimate to us I had some talk with Mr. Parrott what the cost of the railroad track would be. I have no recollection of any other conver-

sation with him upon any other of these subjects. I think Mr. Parrott's estimate was before us before we executed the contract with Mr. Archbold; but how long before, or the precise time when it was laid before us, I don't recollect.

Int. 23. Did Mr. Parrott, to your knowledge, make any personal examination of the site of the proposed harbor of Glace Bay before furnishing you with his said estimate of the cost of the improvements required under the proposed contract with Mr. Archbold?

(Objected to as incompetent and immaterial.)

174 Ans. After we returned from Little Glace Bay to Sidney, in September, 1861, we, that is, Dr. Howe, Mr. Converse, Mr. Parrott, and myself, had a consultation in relation to the mining property and making a harbor. The mouth of the Little Glace Bay brook was filled up with sand and gravel to the width of several hundred feet. In our discussions as to whether sand and gravel could be removed to a sufficient depth to admit vessels to enter, a question arose whether the sand and gravel was kept in its then position by rock underneath it. We had not sufficient information to decide that question. Mr. Parrott said he would go to Little Glace Bay the next day, and with some iron rods then there he would make an examination and ascertain if there was any rock under the sand and gravel that would prevent making the harbor. He was absent all the next day; came in late in the evening, and said he had made thorough examination on that point, and found no rock. I do not know of any other examinations he made, at that time, beyond the rest of us, except that he went down into the coal-pit, where I did not go.

Int. 24. Where was the contract with Mr. Archbold signed?

Ans. In the office of Dr. Howe, at 39 State street, Boston.

Int. 25. Was Mr. Head present in that office on the occasion of the signing of said contract?

Ans. He was not.

Int. 26. Did Mr. Head, to your knowledge, perform any other service than that of examining the machinery purchased by the associates, in connection with the improvements and work done on the property at Glace Bay, in pursuance of said contract with Mr. Archbold?

(Objected to.)

Ans. In the spring of 1862, I learned that Mr. Head was at Glace Bay with Mr. Parrott. While at Glace Bay, in July, 1862, I was asked, as one of the associates, to assent to the payment of a bill, presented by Mr. Head, or in behalf of Mr. Head, for services, at the rate of five dollars per day. After some discussion, I inquired of Mr. Parrott what Mr. Head had done. He told me he had been of great assistance to him. I asked him if the bill, as presented, was in full of all claims, his travelling expenses and other expenses, as well as services. He replied that it was; that Mr. Head

175 would be satisfied if his bill was paid as presented. I assented to the payment of the bill, so far as I was concerned. I have no knowledge of services other than above stated.

(Counsel for complainant objects to the answer as stating hearsay.)

Int. 27. Did or not Mr. Head, to your knowledge, ever make any claim upon the associates for payment for any work or services rendered by him in connection with the improvements made at Glace Bay, under the said contract with Mr. Archbold? If yea, state all that you know about the matter, embraced in this inquiry.

(Objected to as incompetent and immaterial.)

Ans. Mr. Head made a claim for his services for looking after machinery, as above stated, and was paid. While we were at Glace Bay, in July, 1862, a bill was presented by Mr. Head, or on his behalf, for services which he had rendered at Little Glace Bay, with Mr. Parrott, at the rate of five dollars per day. I asked Mr. Parrott what the services were, and he stated what they were, and that Mr. Head had been very useful to him. I asked Mr. Parrott if the bill covered, or was in full of all travelling expenses—other expenses as well as for services. He said it was; Mr. Head would be satisfied if the bill was paid as presented. I, as one of the associates, assented to its being paid. While I was there Mr. Head, at different times, stated to me what he had done.

(Counsel for complainant objects to so much of the answer as states hearsay; also to so much as relates to Mr. Head's bill, as incompetent and inadmissible.)

Int. 28. What was stated to you by Mr. Head as to what he had done, at the time mentioned in your last answer?

(Objected to as incompetent and immaterial.)

Ans. He said that when he and Mr. Parrott arrived there, the knees for the dredge boat had not been procured, boards and other lumber wanted was not there, that he went tramping round the country through the snow hunting up knees, timber, and other lumber; that he went into Sidney once on foot, because he could not get in any other way, to hurry forward boards and other lumber wanted; that he was instrumental in securing the purchase of several acres of land near the mouth of Little Glace Bay; that he superintended clearing it up; that he superintended, some portion of the time, men engaged in driving the piles; directed and assisted in putting
176 the machinery together. My impression is that he mentioned various other things of like character, which I cannot particularize. He had this conversation with me while I was there, at different times, some before and some after his bill was presented.

Int. 29. Did Stephen H. Head, the complainant, ever do or say anything that contributed, in any degree, to induce you to enter into the contract with Mr. Archbold, of Nov. 1, 1861, or to interest you in the enterprise contemplated by said contract, in any way, or at any time?

Ans. He never did. I did not know him at that time. I don't recollect having any conversation with him until July, 1862.

Int. 30. Did Mr. Head ever, to your knowledge, do anything to induce the making of said contract with Mr. Archbold, or aid in the formation of the Glace Bay Mining Company, in any way?

Ans. He never did.

Int. 31. When first and how, if ever, did you learn that Mr. Head

had an agreement with Mr. Archbold for a commission, connected with the making of said contract, or the forming of said company?

(Objected to as incompetent.)

Ans. I think it was on the day on which Mr. Archbold was served with process in this suit, and from Mr. Archbold himself.

Int. 32. When and how first, if ever, did you learn that said William P. Parrott, your own associate under said contract, had an agreement with said Head, by which he was to receive from Head, one-half of the commission to be paid by Mr. Archbold for the making of said contract, and forming said company?

(Objected to as incompetent.)

Ans. Last Monday evening, when I read Mr. Parrott's deposition in this cause.

Cross-examination, by M. E. Ingalls, esq.:

Cross-int. 1. Have you ever read the depositions of Messrs. Parrott and Hubbard, or copies of the same, taken in this suit?

Ans. I read a copy of Capt. Parrott's deposition, last Monday evening; and Mr. Hubbard's deposition, yesterday afternoon.

Cross-int. 2. Did Mr. Hubbard state to you from whom he received the sketch of the property and Little Glace Bay brook, mentioned by you in answer to interrogatory six?

Ans. He said he had it from Mr. Parrott.

177 Cross-int. 3. Are you sure in what month you had these interviews with Mr. Hubbard?

Ans. I am not sure; my impression is it was the last of July; it might have been in the early part of August.

Cross-int. 4. During the interviews to which you refer in answer to the fourteenth question, was there any person or persons present who took no part in the negotiations?

Ans. At the times we sat down altogether and discussed the matter, as I have stated, there were no persons present excepting those who became interested in the contract. At the other times, of the casual conversations, there may or there may not have been other persons present, as the offices were open and business was going on, persons coming in and going out.

Cross-int. 5. Where and when were the details of the contract finally agreed upon?

Ans. My impression is, that details were agreed on during the week prior to the day when the final answer was given, and were fixed and changed and altered from time to time, until we had ascertained what could be done with Mr. Archbold; and we had a meeting for the purpose of discussing the matter and giving him a final answer. That in arriving at and settling the details I, Mr. Hubbard, and Mr. Parrott made memoranda and altered them according to the state of the negotiations, which were revised from time to time by Dr. Howe. When the final answer was given to Mr. Archbold these memoranda were collected, and given to Mr. Hubbard to draw up the contract.

Cross-int. 6. Where and when was the final answer given to Mr. Archbold?

Ans. I don't remember the day of the month. I think it was on Monday previous to the sailing of the steamer on Wednesday; at our offices in Boston.

Cross-int. 7. Who were present at that time?

Ans. Only the persons who were interested in the contract, namely: Mr. Parrott, Mr. Hubbard, Mr. Converse, Dr. Howe, and myself. My impression is, that Mr. Archbold was sent for and came in, and we gave him the answer; of this I am not certain.

Cross-int. 8. Do you recollect whether any one came in with Mr. Archbold at that time?

178 Ans. I think there did not any one come in.

Cross-int. 9. Are you sure there were no other persons in your offices than the five associates mentioned by you at the time you gave a final answer to Mr. Archbold?

Ans. I feel sure there were no other persons in the room where we then were.

Cross-int. 10. Did Capt. Parrott ever state to you upon what facts he made the estimate mentioned by you in answer to twenty-second question?

Ans. I don't remember that he ever did.

Cross-int. 11. Did Capt. Parrott ever state to you or your associates, in your presence, that he made said estimate from his own personal examination?

Ans. I don't remember that he ever did, or that there ever was any conversation on the subject of how he made the estimates.

Cross-int. 12. Did Mr. Head ever state to you that he considered five dollars per day a fair compensation for the services rendered by him at Glace Bay referred to by you in answer to the twenty-eighth question?

Ans. I never had any conversation with Mr. Head on the amount of his compensation.

Cross-int. 13. Was or not the time of completing the contemplated improvements at Glace Bay a material point with you?

Ans. We were desirous of having them completed as soon as possible in order to ship and sell the coal and get paid for the same.

JAMES W. EMERY.

179 *Deposition of Edward P. Archbold.*

TUESDAY, *Feb.* 27, 1866.

(Counsel for complainant objects to the examination of this witness.)

Int. 1. Please state your name, age, residence, and occupation.

Ans. My name is Edward P. Archbold; age, fifty-one years; residence, Halifax, Nova Scotia. I am treasurer of the Glace Bay Mining Company, and also manager.

Int. 2. Are you the defendant in the present suit?

Ans. I am.

Int. 3. Please state where your answer in this suit was drawn, and signed, and sworn to by you?

(Objected to.)

Ans. It was made and signed by myself in Boston.

Int. 4. Please state where your papers and memoranda, relating to the facts and circumstances mentioned and embraced in the said answer, were at the time when the answer was drawn up and signed.

(Objected to.)

Ans. They were in Nova Scotia.

Int. 5. Had you or not with you, here in Boston, at said time any written memoranda of the transaction with the complainant, which is in controversy in this suit, or any means of refreshing your memory by reference to the said papers and memoranda, and did you or not make the said answer without the aid of the same papers and memoranda?

(Objected to.)

Ans. I had no papers or memoranda; I made the answer without the aid or assistance of the memoranda or papers.

Int. 6. Please state whether or not, since the time when your said answer was made, you have had an opportunity of examining any papers or memoranda relating to the subject-matter of this suit, and whether or not you have examined the same.

(Objected to.)

Ans. I have. When I made my said answer I was summoned by telegraph to come on here. At that time I had just arrived
180 from Europe, and had neither time nor opportunity to consult my papers relating to this suit.

(Counsel for complainant objects to all the foregoing answer after the words "I have.")

Int. 7. State the circumstances connected with your coming to Boston to make your said answer in this suit.

(Objected to; also for form.)

Ans. Immediately after the English steamer left Halifax for Boston, in which I came to Halifax from Europe, I received a telegram from Mr. Muzzy to be here at a certain day. I found it was impossible to reach here by that day by the ordinary means of travel. A steam freight ship happened to be in Halifax at that time discharging part cargo. This freight steamer left Halifax for New York at midnight of the day I received the telegraph which, fortunately, enabled me to reach Boston on the morning of the day my presence was required here; otherwise, it would have been impossible for me to reach Boston at that time.

(Counsel for complainant objects to all the foregoing answer.)

Int. 8. State whether or not you possessed, at the time you left Halifax, any papers or memoranda of consequence to you in making your answer to this suit; and if yea, state where the said papers and memoranda were at the time when you left Halifax, and whether or not you had any opportunity to examine the same or to bring them with you to Boston. If not, why not?

(Objected to.)

Ans. I did possess such papers and memoranda, and they were then in Cape Breton. They were at Cape Breton, and consequently I could not examine them or bring them with me to Boston.

Int. 9. When, if ever, after said answer was made, did you see and examine said papers and memoranda?

(Objected to.)

Ans. After my return to Nova Scotia; I had access to them at Cape Breton. I examined them, and subsequently refreshed my memory by looking over them.

Int. 10. Is there or not anything in your said answer in this suit that you wish to correct? If yea, please state what the said correction, if any, is?

181 (Objected to.)

Ans. There is; I stated from memory that my reply to Mr. Hughes's letter was made verbally in September, 1860. It should have been stated as being in June, 1861; that being the first time I was in the State for, perhaps, fifteen years. What I meant by the answer to Mr. Hughes's letter was, that I should have stated that I received it in May or June, 1861, instead of September, 1860.

Int. 11. Please read over your answer, and see whether you wish to make any further correction.

Ans. There is nothing that I see that requires to be altered, except the matter of compensation was spoken of, but nothing definite arrived at, in June, 1861, nor until October or November of that year.

Int. 12. Please examine the letter which is annexed to the deposition of George Hughes, taken in this suit, signed, "Atherton, Hughes & Co.," and marked "U, C. W. T., U. S. com.," and state whether or not that is the letter referred to in your answer in this suit as having been written by George Hughes to Thomas D. Archibald.

Ans. It is a copy of the letter referred to by me in my answer.

Int. 13. Please state whether or not you now have with you your book which contains the press copies of letters written by you to your correspondents during the year 1861. If yea, please produce the same.

(Objected to.)

Ans. I have; and here it is.

Int. 14. Please state whether or not in the month of August, 1861, you received a letter from Stephen H. Head, the complainant in this case, and whether or not the paper annexed to the deposition of William P. Parrott and marked "Q, C. W. T., U. S. com.," is such letter.

(Objected to.)

Ans. Yes, sir; that is the original letter I received from Mr. Head.

Int. 15. State whether or not you sent to Mr. Head, any reply to his said letter, and if yea, when and how.

(Objected to.)

Ans. I did, on the 31st of August, 1861, by mail steamer, via Halifax.

Int. 16. State, if you can, how the said letter, written by you, to Mr. Head, was addressed on the envelope.

182 (Objected to.)

Ans. Stephen H. Head, care of William P. Parrott, Boston.

Int. 17. State whether or not you wrote, and sent to Mr. Head, any other letter than the one referred to above, during the year 1861.

(Objected to.)

Ans. Not that I recollect.

Int. 18. State whether or not you preserved any copy of your said letter to Mr. Head.

(Objected to.)

Ans. I did.

Int. 19. Have you, or not, such copy still in your possession?

(Objected to.)

Ans. I have.

Int. 20. State how and when you made the said copy, and where it now is?

(Objected to.)

Ans. I pressed it in a book 31st August, 1861, page 341 of this book, which I now produce.

(Counsel for complainant objects to the use of said book.)

(Counsel for respondent now produces the paper marked "W, C. W. T., U. S. com.," and annexes the same to this deposition.)

Int. 21. Will you deposit with the commissioner your said letter-book, containing the said copy of your said letter to said Head, above referred to by you, for the purpose of having the same used in the hearing of this cause before the court?

(Counsel for complainant objects to the question and also to the use of said book.)

Ans. I will, and hereby do so.

(The witness here hands the commissioner the book referred to which bears the signature of the commissioner therein on pages 1, 341, and 650.)

Int. 22. Will you please annex a copy of your said letter to Mr. Head to your deposition?

(Counsel objects to the question, and also to the production of the copy.)

Ans. I will, and hereby do; the same is marked "X, C. W. T., U. S. com."

Int. 23. Will you examine the certificates of stock in the

183 Glace Bay Mining Company, now exhibited to you, and respectively numbered 2, 6, 7, and state whether or not the same were ever in your possession?

Ans. They were, sir.

Int. 24. Will you please annex the said certificates to your deposition?

Ans. I will, and they are marked as follows: Certificate No. 2, "Y, C. W. T., U. S. com."; Certificate No. 6, "Z, C. W. T., U. S. com.," and certificate No. 7, "AA, C. W. T., U. S. com."

Int. 25. Please state whether or not the signature, "Edward P.

Archbold," which appears at the bottom of the transfer on each one of the said certificates, is in your handwriting.

Ans. It is.

Int. 26. Please state when you placed your said signature at the bottom of said transfer on the above certificates.

Ans. The same day they were issued, 16 September, 1862.

Int. 27. Please state whether or not you ever delivered the said certificates to any person, and if so, to whom, when and where.

Ans. I delivered them, with another certificate which is annexed to the deposition of William P. Parrott, taken in this suit, and marked "R, C. W T., U. S. com.," to Messrs. Parrott and Head, at No. 40 State street, on September 16, 1862, the day the said certificates are dated.

Int. 28. Please state whether or not, in November, 1861, any paper or contract was shown to you by said William P. Parrott, which contained or purported to be, a statement in writing of the agreement between yourself and Mr. Head as to the commission to be paid by you to him, or to him and said William P. Parrott, for his or their services in connection with the contract entered into by you with Messrs. Hubbard, Emery, Howe, Converse, and Parrott, for the sale of your mining property; in which said writing it was, in substance, stated that twenty per cent. was the amount which you originally agreed to pay said Head, or said Head and Parrott, as his or their said commission for said services, but that, in consequence of your supposing that the work was all done, that fifteen per cent. under that supposition would be a sufficient compensation for said services, and which paper also recognised the right of the said Parrott to share with the said Head in the said commission. State
184 whether or not you were ever shown such a paper, or ever requested said Parrott to draw up such a statement.

(Objected to as incompetent, immaterial, and leading.)

Ans. I never saw such a paper, nor did I request Mr. Parrott to draw such a statement, or any statement.

Adjourned to Thursday, March 1st, at 10. A. M.

THURSDAY, *March* 1.

Direct examination resumed:

Int. 29. Are you familiar with the handwriting of William P. Parrott and that of S. H. Head, the complainant. If yea, please examine the paper now shown you, and state in whose handwriting the body of the same, and signatures thereto, are.

(Objected to.)

Ans. I am familiar with the handwriting of William P. Parrott, and the signature of S. H. Head. The body of the paper and the signature is in the handwriting of William P. Parrott; the signature S. H. Head is in his own handwriting. The words "Sidney, July 4, 1862, received payment," are in my own hand.

Int. 30. Will you please annex the said paper to your deposition?

(Counsel for complainant objects to the use of said paper as evidence.)

Ans. I will, and it is marked "BB, C. W. T., U. S. com."

Int. 31. Was the said paper ever in your possession, and if yea, from whom and when did you receive the same?

(Objected to.)

Ans. It has been in my possession since the 4th of July, 1862. I think I received it from either Mr. Parrott or Mr. Head.

Int. 32. Do you know whether or not the amount receipted for in said paper was ever paid, and if so, when, by whom and to whom?

Ans. It was paid, as stated in the receipt, by me, as agent of the Glace Bay Mining Campany. I paid it to Mr. Head, July 4, 1862.

185 Int. 33. Did you or not, as such agent, make a further payment at any time to Mr. Head for any work done by him for the Glace Bay Mining Company?

(Objected to.)

Ans. I did.

Int. 34. When, and for what, did you make such payment and what was the amount of the same?

(Objected to.)

Ans. Subsequent to the last payment, that is the payment just testified to, either in fall of 1862 or fall of 1863, I paid him a small amount, eight or ten dollars. This was for riveting the crown sheet of a boiler.

Cross-interrogatories, de bene esse, propounded by M. E. Ingalls, esq., of counsel for complainant.

Cross-int. 1. How many days were you engaged in making your answer in this suit in Boston?

Ans. I could not tell precisely, some days, it may have been two and it may have been seven days. I think two days, for I think I returned to Halifax on the third day.

Cross-int. 2. Who assisted you in making said answer?

Ans. Mr. Muzzey, and I had conversation possibly with Mr. Emery, Dr. Howe and Mr. Converse, and may be, Mr. Hubbard.

Cross-int. 3. Did you not make said answer deliberately, and did you not have time to consider the same before signing and swearing to the same?

Ans. I had time. I had two days to consider it.

Cross-int. 4. What papers and memoranda do you refer to in answer to the fourth direct question?

Ans. My press letter-book and the papers in connection with the formation of the company, and a memoranda of the calculation of the fifteen per cent. paid Messrs. Head and Parrott.

Cross-int. 5. What written memoranda of transactions with Mr. Head had you at home?

Ans. I had a copy of a letter I wrote to him, Aug. 31, 1861,

186 and a paper containing the calculation of the fifteen per cent., and the books of the company to refer to.

Cross-int. 6. What was there in the books of the company relative to your transactions with Mr. Head?

Ans. It was requisite to inform myself of the dates of certain trans-

actions which I found there, as the whole thing had passed from my mind.

Cross-int. 7. Where was your home at the time you made your answer to this suit?

Ans. I had no fixed home, just returned from Europe; part of my time I passed at Halifax, Sidney, and Glace Bay, at Cape Breton.

Cross-int. 8. Where did you keep your papers?

Ans. Some at Halifax, and some at Glace Bay.

Cross-int. 9. Where was your written memoranda relative to the transactions with Mr. Head?

Ans. A copy of the letter, I think, was at Glace Bay.

Cross-int. 10. Are you not sure where it was?

Ans. I think it was at Glace Bay; if not, it was at Halifax. My recollection is that it was at Glace Bay.

Cross-int. 11. Where was the memoranda of the payment of the fifteen per cent. referred to by you?

Ans. In a pocket-book at Glace Bay.

Cross-int. 12. What papers or memoranda have you examined since you made your said answer?

Ans. None but those spoken of, the copy of the letter and the memoranda.

Cross-int. 13. When did you examine them?

Ans. When I returned to Cape Breton, in October or November last.

Cross-int. 14. Where did you examine them?

Ans. In the director's house at Glace Bay.

Cross-int. 15. How soon after your return was it?

Ans. Soon after I presume.

Cross-int. 16. Who first called your attention to the mistake you had made in the dates in your answer?

(Objected to.)

187 Ans. I detected it on seeing the answer when I came here now, this time.

Cross-int. 17. When did you first learn you had made a mistake in your said answer in regard to the matter of compensation?

(Objected to.)

Ans. I have not learned yet that I have made a mistake.

Cross-int. 18. Did you, yourself, in 1861, make press copies of letters written by you?

Ans. I did.

Cross-int. 19. Did you, yourself, mail the letter referred to by you in answer to the fifteenth question?

Ans. I can't positively say I did myself, but I rather think I did, [as I deemed it important. If not, I made sure it was mailed; I am very particular about letters of importance.]

(Counsel for complainant objects to all the above answer inclosed in brackets.)

Cross-int. 20. Did you, yourself, write the address on the envelope in which you inclosed said letter?

Ans. I did.

Cross-int. 21. Did you put the same name upon the envelope that you put at the head of your said letter?

Ans. I presume I did, S. F. Head.

Cross-int. 22. The copy referred to by you in your answer to direct question nineteen, is an exact copy, is it not?

Ans. It is.

Cross-int. 23. When was the copy referred to by you in answer to the twenty-second question, made?

Ans. I could not tell exactly; it was some time since I made my answer to my suit.

Cross-int. 24. From what was it copied?

Ans. From the press copy in my letter-book.

Cross-int. 25. In whose office did you deliver the certificates as testified to by you, in answer to twenty-seventh direct question?

Ans. In the office of William P. Parrott.

Cross-int. 26. Where was that office?

Ans. No. 40 State street.

Cross-int. 27. What time in the day was it?

188 Ans. In the afternoon, between four and six o'clock.

Cross-int. 28. Who were present?

Ans. Mr. Head and Mr. Parrott.

Cross-int. 29. To whom did you hand said certificates?

Ans. I placed all my certificates for seven hundred and fifty shares on the table, and told Messrs. Head and Parrott to take their certificates.

Cross-int. 30. How many certificates were there on the table?

Ans. I don't know precisely; but there were seven, eight, or nine, possibly more, possibly less.

Cross-int. 31. For how long had you had your stock divided into this number of certificates?

Ans. A few hours; it was the original issue.

Cross-int. 32. How many shares were included in each certificate?

Ans. I can't positively answer the quantity in each certificate; there was one for a hundred and twelve shares, one for one share, one, I think, for three hundred shares, one for forty shares. This is all I recollect. I can't recollect all in each of the certificates, nor am I sure that there was one for three hundred shares. It may have been thirty instead of three hundred. There was one for one hundred and twenty. I cannot recollect the exact number of certificates into which my stock was divided, as I had no object in recollecting. I think there was one certificate for seventy-two shares.

Cross-int. 33. For what purpose or object did you divide up your stock in this manner?

Ans. Before getting my stock that morning, Messrs. Parrott and Head instructed me the number and size of the certificates to take out, in order to make fifteen per cent. of the capital stock divisible by them into seven and a half per cent. each, Capt. Parrott having calculated and given me a memoranda. I had no particular object in breaking up the balance as I did; but thought as they, Parrott and Head, made parts of theirs, that I might as well do the same.

Cross-int. 34. Were all the transfers signed in blank, or were they filled up.

Ans. There was no transfer signed by me on any of the certificates when I put them on the table.

Cross-int. 35. What did you say when you laid the certificates on the table?

189 Ans. I told them to select their certificates out of the batch, what was due them.

Cross-int. 36. Who picked out the certificates?

Ans. I can't say positively; I think it may have been both. I think Capt. Parrott handed them to me to make the transfer.

Cross-int. 37. Did not Capt. Parrott examine the certificates and select the ones he wanted for himself and Head?

Ans. He did; he and Mr. Head together; they acted in concert in the matter.

Cross-int. 38. Did you see Mr. Head examine any of the certificates at that time, before the transfers were signed?

Ans. He saw the whole number. He saw the whole of the certificates as much as Mr. Parrott and myself. Mr. Head knew of the disposition—saw the disposition—of the two hundred and twenty-five shares, and was present at the time of the transfer.

(Counsel for complainant objects to the whole of the above answer as irresponsive and argumentative.)

Cross-int. 39. Did you see Mr. Head examine any of the certificates at that time, before the transfers were signed?

Ans. I did.

Cross-int. 40. How did he examine them?

Ans. By looking at them.

Cross-int. 41. You mean by the phrase "by looking at them," that he saw them as they laid on the table, don't you?

Ans. I had not finished my answer to the preceding question. When selecting with Capt. Parrott their fifteen per cent. commission. I mean by seeing them when selecting, as I stated before, his and Capt. Parrott's commission for their compensation.

Cross-int. 42. Who was the person who took up the certificates and designated them as the ones to be transferred?

Ans. Either Parrott or Head.

Cross-int. 43. Do you remember which it was?

Ans. I am not positive, sir.

Cross-int. 44. Did Mr. Head take any of the certificates in his hand and read them prior to the transfers?

Ans. I think he did. It was the first issue, and they were rather novel. I think he looked them all over.

190 Cross-int. 45. Who handed the certificates to you to make the transfers, Head or Parrott?

Ans. I won't undertake to say which of them.

Cross-int. 46. How were said transfers signed, whether in blank, or filled up with the names of the persons to whom the transfers were to be made?

Ans. In blank.

Cross-int. 47. To whom did you deliver them after signing?

Ans. I won't undertake to say. I left them on the table. There was no dispute or difference then.

(Counsel for complainant objects to the last part of this answer.)

Cross-int. 48. How soon after signing said transfers was it that you left the room?

Ans. I can't say to a minute. I suppose about an hour afterwards. We had a conversation on general matters for some time.

Cross-int. 49. Did these certificates remain on the table during this time?

Ans. I won't undertake to say; I won't undertake to say what became of them after the transfer.

Cross-int. 50. About what time in the day was it when you left the office?

Ans. About six in the evening, perhaps later.

Cross-int. 51. When did you leave Boston after this?

Ans. I think the next day.

Cross-int. 52. Did you see either Head or Parrott before leaving Boston after that interview?

Ans. I think they both saw me off the next day.

Cross-int. 53. Where was it you met them, and when?

Ans. The next morning, at the Revere House, one or both of them called on me. I am pretty positive Mr. Head came.

Cross-int. 54. Who gave you the instructions mentioned by you in answer to the thirty-third cross-interrogatory?

Ans. Mr. Parrott and Mr. Head.

Cross-int. 55. Did both of them give you the same instructions?

Ans. They both concurred in the instructions. Capt. Parrott, I think, did the speaking, and gave me the calculation.

Cross-int. 56. How long was it before you brought in the
191 certificates, that this conversation about the number of shares took place, or when Parrott gave you the instructions mentioned in your previous answer?

Ans. The morning of the same day; not more than six hours previous.

Cross-int. 57. Where was it this conversation took place?

Ans. In Capt. Parrott's office, No. 40 State street.

Crost-int. 58. Who were present at the time?

Ans. Mr. Head and Mr. Parrott.

Cross-int. 59. Did you meet there by appointment, or accidentally?

Ans. I won't say positively; we met every day, and I think it likely by appointment on this particular occasion.

Cross-int. 60. Who opened the conversation?

Ans. I can't recollect.

Cross-int. 61. Who introduced the subject of paying anything at that time?

Ans. I can't say, particularly; [only the calculation as before stated was made.]

(Counsel for complainant objects to the above answer inclosed in brackets.)

Cross-int. 62. Had any certificates of stock been previously issued to any of the members of the Glace Bay Mining Company?

(Objected to.)

Ans. Four hundred shares were voted to be issued to the other stockholders, with my seven hundred and fifty at the same time.

Cross-int. 63. For what object did you call on said Parrott at that time?

(Objected to.)

Ans. The last meeting of the Glace Bay Mining Company was to have been holden at two o'clock that day, for the purpose of completing and finishing at that director's meeting, and authorizing said stock to be issued; and we were in the habit of conferring together at Capt. Parrott's office, previous to each directors' or stockholders' meeting, that is, Mr. Head, Mr. Parrott, and myself; also, Mr. Parrott, Emery, Converse, Howe, and myself consulted previous to those meetings as to what was to be done at a stockholders' or directors' meeting, as the case might be; that is, we held informal meetings.

192 I had no particular object in calling on Mr. Parrott at that time, beyond general measures. Mr. Head generally called on me each morning, and took me to Capt. Parrott's office, from the Revere House.

Cross-int. 64. Then do you mean that this conversation took place, and these instructions were given, before the stock was authorized to be issued?

Ans. It was known that the stock was to be issued that day. The papers of transfer being all prepared for signature that day, after which the certificates were to be issued.

Cross-int. 65. State all that was said by each of the persons present at the conversation at the time you received the instructions mentioned in your answer to the thirty-third cross-question.

Ans. I could not pretend to tell you. There was a good deal said, we were a long time in conversation. We laughed, and joked, and chatted. Capt. Parrott is funny when in good humor.

Cross-int. 66. Where is the memoranda mentioned by you in answer to the thirty-third cross-question?

Ans. I have got it with me; I mean the memorandum of my own calculation in conformity with Capt. Parrott's calculation of fifteen per cent. This memoranda Capt. Parrott gave me was handed me in figures; that is, I took down the figures, and the number of shares in each certificate to be taken out by me for them. I can't say what has become of the memorandum Capt. Parrott gave me. I would know it if I saw it; whether he handed the written memorandum to me, or whether I took a copy from the same, I can't say.

Cross-int. 67. Was any such paper, as inquired of in the twenty-eighth direct question, shown to you in October, 1861?

Ans. I never saw, heard, or asked about such a paper, until I saw it mentioned in Capt. Parrott's deposition. This was the first I ever heard about it.

Cross-int. 68. Were not you and Head in Capt. Parrott's office together, some time in October or November, 1861, when said Parrott

was present, at which interview you and Head had some discussion in regard to the compensation to be paid Head by you for his services in reference to the sale of your mine?

Ans. Head and I were in one office, and Capt. Parrott was in the adjoining office, when a discussion of that nature took place.

193 Cross-int. 69. Was not said Parrott present during any of this discussion?

Ans. He was present, that is, he was in the next room. I don't know that he was in the same room.

Cross-int. 70. Can you swear that he was not in the same room?

Ans. Not positively; to the best of my belief he was not. He had some plans in the adjoining room that he was looking at.

Cross-int. 71. Was the door between said rooms opened or closed?

Ans. It was open; at all events it was a part of the time.

Cross-int. 72. Did not Capt. Parrott at this time try to reconcile the disagreement between you and Head?

Ans. I think not. I don't recollect that he interfered at all.

Cross-int. 73. Was this the only discussion you had with Head upon this matter of compensation during said months of October and November?

Ans. No.

Cross-int. 74. Did you have any other discussion as to said matter with Head in said months, in said Parrott's office?

Ans. Not that I recollect.

Cross-int. 75. During this discussion testified to by you above, did you see said Parrott hand any papers to Head?

Ans. Not that I recollect.

Cross-int. 76. Did Parrott take any part in said discussion?

Ans. Not that I recollect.

Cross-int. 77. Where did said discussion commence?

Ans. It first commenced at the Revere House, and continued from time to time, by Mr. Head and myself.

Cross-int. 78. When and where did this particular conversation inquired of, commence?

Ans. I could not say at what time of day it commenced. It might have begun in the street and continued into the office.

Adjourned to Friday at 10 a. m.

194 FRIDAY, *March* 2.

Cross-examination resumed:

Cross-int. 79. When did you first see the paper mentioned in your answer to direct question 29?

Ans. It was between the first and fourth of July, 1862.

Cross-int. 80. Who presented the same to you?

Ans. Either Capt. Parrott or Mr. Head. I think Capt. Parrott.

Cross-int. 81. Where, when, and to whom did you pay said amount?

Ans. Between the first and fourth of July, 1862; whether at Sidney or Glace Bay I do not know. It may have been by a draft on

Boston or Halifax. I was in the habit of drawing on both places. I paid the same to Mr. Head.

Cross-int. 82. What authority had you to pay the same?

Ans. I was president of the Glace Bay Mining Company and paid all their bills down there. I had the assent of the associates who were there, at Glace Bay, at that time.

Cross-int. 83. When was the Glace Bay Mining Company organized?

(Objected to.)

Ans. I consider the organization was about the first of November, 1861.

Cross-int. 84. Was the matter of compensation spoken of between you and Head more than once in June, 1861, or at the time referred to by you in answer to the eleventh direct question?

Ans. Yes.

Cross-int. 85. Where and when was it first mentioned between you?

Ans. Sometime in the month of June. I think at the American House, in Boston.

Cross-int. 86. Who were present at that time?

Ans. A great many of the boarders of the American House.

Cross-int. 87. In what room was it?

Ans. I don't recollect.

Cross-int. 88. Was any one present that you knew?

Ans. Not that I recollect.

Cross-int. 89. Were the boarders referred to by you, listening to your conversation?

195 Ans. Not that I know of.

Cross-int. 90. What was said at that time between you and Head as to the matter of compensation?

Ans. Mr. Head wanted twenty per cent.; he said twenty-five per cent. was usual for getting up stock companies; that he never did such work for less than twenty per cent. I was amazed at the rate named and argued for a lesser sum, a lesser commission, and finally consented, whether at that or a subsequent interview, to allow fifteen per cent. There was a good deal more said, but I can't bear every thing in my mind. Mr. Head consented to accept fifteen per cent. if he succeeded in organizing a company.

Cross int. 91. Did you offer Head fifteen per cent. at first at the conversation above testified to by you?

Ans. I think not.

Cross-int. 92. Did you make him any offer at that time?

Ans. I spoke of five per cent. as being a fair thing, or ten per cent. at the outside. I was amazed at his asking twenty per cent.; I thought he was joking.

Cross-int. 93. Where and when was it that you first offered him fifteen per cent.?

Ans. In Boston; the exact place I can't say. It was in June, 1861.

Cross-int. 94. How many conversations upon the matter of compensation did you have with Head at Boston in June, 1861?

Ans. I can't define the number; it was almost the only thing spoken of by him.

Cross-int. 95. Was it at the first or second conversation, or which one was it you first offered him fifteen per cent.?

Ans. It was towards the last. I was hard to assent to pay fifteen per cent.

Cross-int. 96. Where did the second conversation on this subject in June, 1861, take place?

Ans. I cannot now say; we had a conversation, and perhaps several, at the American House and in the streets, and perhaps elsewhere.

Cross-int. 97. How many days were you in Boston in June, 1861?

Ans. I can't say.

196 Cross-int. 98. Have you no means of refreshing your memory on that subject?

Ans. Not as to the duration of time. I was here for some days.

Cross-int. 99. Did you meet with Head each day you were here?

Ans. Almost every day.

Cross-int. 100. Was the matter of Head's compensation talked over at each and every interview in June, 1861?

Ans. I should say not.

Cross-int. 101. How many interviews did you have at which the matter of Head's compensation was not talked over?

Ans. I can't now recollect.

Cross-int. 102. Was it mentioned at the first interview you had with him in June, 1861?

Ans. No.

Cross-int. 103. Was it at the second?

Ans. I think not, but can't say positively. It is now a long time ago.

Cross-int. 104. Your memory is not very clear upon this subject; is it?

Ans. As clear as any circumstances happening as long ago as that period.

Cross-int. 105. Do I understand you as stating, in your answer to the ninetieth cross-question, that Head finally agreed with you, in June, 1861, to take fifteen per cent. as his compensation, if he succeeded in organizing a company?

Ans. If he succeeded at that time.

Cross-int. 106. What time do you refer to by "that time?"

Ans. During my stay in Boston in June, 1861.

Cross-int. 107. When was it that Head made this final agreement with you?

Ans. There was no agreement in connection with the interviews in June, 1861, he failing to get up a company—organizing a company. By no agreement I mean there was nothing conclusive arrived at at that time, and I returned home.

Cross-int. 108. When did Mr. Head finally consent to take the

fifteen per cent., as testified to by you in answer to cross-questions ninety and one hundred and five?

197 (Objected to.)

Ans. It must have been in June, 1861. In my previous answer I thought the final agreement alluded to in question meant the conversation in October, 1861.

Cross-int. 109. Which question do you refer to in your last answer?

Ans. I allude to the term "final," which I thought meant the final termination. I refer to question ninety.

Cross-int. 110. Do I understand you to mean by your answer to cross-question ninety that Mr. Head, in June, 1861, consented to accept of you fifteen per cent. as his compensation for organizing a company for you?

Ans. Those were the terms I proposed to him, and I think he assented. There was no agreement.

Cross-int. 112. When did he assent to the same?

Ans. In June, 1861, and finally in October, 1861.

Cross-int. 113. What do you mean by the word "finally" in your previous answer?

(Objected to.)

Ans. I mean a company was organized in October or first of November, 1861, when he assented to the fifteen per cent., being a confirmation of my former proposal.

Cross-int. 114. Will you please state exactly what your former proposal was?

Ans. I have already stated—fifteen per cent.

Cross-int. 115. What was this fifteen per cent. for?

Ans. Literally for nothing. At the time, I was given to understand Mr. Head was a person possessing great influence with capitalists and men of business, which led me to assent to the enormous commission of fifteen per cent.

(Counsel for complainant objects to the whole of the above answer.)

Cross-int. 116. What did you offer Mr. Head fifteen per cent. for in June, 1861?

Ans. For getting up a stock company, or for selling half of the Glace Bay mines, and for doing everything in connection therewith.

Cross-int. 117. Do I understand from your answer to cross-question one hundred and five, that any time was fixed or limited in which Mr. Head was to organize a company, if at all?

198 Ans. During my stay in Boston at that time, I think, was the meaning of that.

Cross-int. 118. On what day in June, 1861, was it that Mr. Head assented to accept fifteen per cent. as his compensation for organizing the company, as stated by you in answer to the one hundred and twelfth cross-interrogatory?

Ans. I cannot name the day; it was after the twelfth of June.

Cross-int. 119. When did you arrive in Boston in June, 1861?

Ans. I think on the 12th of June.

Cross-int. 120. When did you leave?

Ans. I cannot say.

Cross-int. 121. Was it in June or July?

Ans. I really could not say; it may have been the end of June or beginning of July.

Cross-int. 122. How many days did you remain in Boston in June, 1861?

Ans. I don't know.

Cross-int. 123. Have you not some means by which you can refresh your memory on this point?

Ans. I find I was at home on the 6th of July.

Cross-int. 124. At what hotel, if any, did you stop while in Boston, in June, 1861?

Ans. I think the American Hotel.

Cross-int. 125. Did you leave Boston on the same day you left the American House?

Ans. I don't know; I presume I did.

Cross-int. 126. Did you stop at any other house or place than the American House while you were in Boston in June, 1861?

Ans. I believe not.

Cross-int. 127. Are you not sure of this?

Ans. I am not, but I think so.

Cross-int. 128. How many days did it take you to go home from Boston at that time?

Ans. I don't know; it generally takes from three to four days. My opinion is, I was here fourteen days.

Cross-int. 129. You say you arrived in Boston on the 12th of June, 1861. How soon after this was it before you met with Mr. Head?

199 Ans. The same day.

Cross-int. 130. Was the matter of Head's compensation talked over at that interview?

Ans. I think not.

Cross-int. 131. When did you next meet Head?

Ans. We were together almost every day whilst I was here—I should say every day.

Cross-int. 132. How long was it after your first interview with Head before you offered him the "exorbitant sum of fifteen per cent.?"

Ans. I can't name the day.

Cross-int. 133. Was it at your second or third interview, or when?

Ans. I think it was after the third interview.

Cross-int. 134. He did not assent to it at once, did he?

Ans. No, he argued it a good deal.

Cross-int. 135. How many interviews did you have with him before he informed you he had concluded to accept it?

Ans. I don't know—perhaps four or five—perhaps more.

Cross-int. 136. At the time Mr. Head assented to this, had you informed him how long you were going to remain in Boston?

Ans. I can't say.

Cross-int. 137. Did he make any efforts, to your knowledge, to organize a company whilst you were here, in June, 1861?

(Objected to.)

Ans. He gave me to understand he did, and had all but organized it, and would have done so but for the unsettled state of the money market at that time.

Cross-int. 138. When you left Boston in June or July, 1861, did you consider that the negotiations with Mr. Head, for the formation of a company, were broken off?

Ans. I can't say positively. I rather think, from my letter to Mr. Head of 31st Aug., 1861, it was concluded.

Cross-int. 139. Have you no other means of answering, as to what you considered when you left Boston in June or July, as to this negotion being broken off or not, but your letter of Aug. 31, 1861?

Ans. Not beyond memory.

Cross-int. 140. Did you or not, when you left Boston in June or July, 1861, consider the negotiations between you and Head broken off?

200 Ans. I can't say; [but on reference to my letter of Aug. 31st, 1861, to Mr. Head, if so broken off, they were again renewed.]

(Counsel for complainant objects to all inclosed in brackets.)

Cross-int. 141. Why can't you say? Don't you know what the state of your mind was then?

Ans. I can't say, because I don't know. My mind was in a perfect state, I presume.

Cross-int. 142. What do you mean by the words contained in your answer to the one hundred and tenth cross-question, "there was no agreement?"

Ans. There was no writing.

Cross-int. 143. When you have used the word agreement in your testimony in this suit, have you always used it as meaning a written agreement?

(Objected to.)

Ans. No; I mean by it a written agreement, or something definite, or that matters have been completed.

Cross-int. 144. Do you consider that an agreement cannot be definite unless it is in writing?

(Objected to.)

Ans. I do not.

Cross-int. 145. Did you leave Boston in July, 1861, for the reason that you supposed the negotiation had failed to form a company?

Ans. When I left, it was having performed the business I came to Boston for.

(Objected to as irrelevant.)

Cross-int. 146. Did you leave Boston in July, 1861, for the reason that you supposed the negotiation had failed to form a company?

Ans. I can't say that I left Boston in July or latter part of June. The reason I left, was having completed the business I came for.

Cross-int. 147. Did you consider your agreement with Mr. Head was over when you left Boston in June or July, 1861?

Ans. I can't say from memory. On reference to my letter to Mr. Head of August 31st, 1861, I presume it was, if I wished it, liable to be resumed or continued.

Cross-int. 148. With whom did you converse about the formation of the company while you were in Boston at that time?

201 (Objected to.)

Ans. With Mr. Head and Mr. Parrott.

Cross-int. 149. Did you suggest to Mr. Head during that visit any terms on which you would like to organize a company for Glace Bay?

Ans. No; he proposed to me to get up a company, he and Capt. Parrott.

Cross-int. 150. Did Head propose to you the terms upon which the company should be formed, or did you suggest them to him?

Ans. Capt. Parrott, Mr. Head and myself spoke the matter over. The proposition first came from them. I can't say anything further.

Cross-int. 151. What was the business which brought you to Boston?

Ans. To see Mr. Hughes in reference to a quantity of coal he wrote to Messrs. Archibold & Co. about.

Cross-int. 152. Did you bring up with you any plans or papers descriptive of the property you owned at Glace Bay?

Ans. I did.

Cross-int. 153. What did you do with them in Boston?

Ans. I showed them to Mr. Odiorne, and brought them for that purpose, and also showed them to Capt. Parrott and Mr. Head?

Cross-int. 154. With whom did you leave them, if you left them?

Ans. I think I left one with Mr. Odiorne and one with Mr. Parrott; at all events with the latter.

Cross-int. 155. Did you leave any of them with Mr. Head?

Ans. I presume the one left with Mr. Parrott was intended for both. I may have left two—that is, one for each; I don't recollect.

Cross-int. 156. When you left Boston, were you under the impression that Mr. Head would continue his efforts to form a company, or otherwise?

(Objected to.)

Ans. I don't know; the inducement was large.

Cross-int. 157. Did you know at the time you left what impression you had on your mind on the subject last inquired of?

(Objected to.)

Ans. I thought the thing had fallen through.

Cross-int. 158. Did Mr. Head tell you during that visit in June or July, what persons he had interested or endeavored to interest in the enterprise?

202 Ans. I think not.

Cross-int. 159. Did you have consultations together regarding the probable expense of developing the mine?

Ans. I don't recollect. Conversation on that subject was more with Mr. Parrott.

Cross-int. 160. In or out of Mr. Head's presence? Which?

Ans. He was generally present.

Cross-int. 161. Did you have any conversations in his presence and hearing concerning the expense of developing the mine, or the amount of capital requisite for the undertaking.

Ans. I think not at that time; we may; I don't recollect.

Cross-int. 162. Did you develop to Mr. Head, or in his presence during that visit, your plan for enlarging the accommodation and production of that mine?

Ans. I did.

Cross-int. 163. Did you make any approximate estimate of the sum you supposed such a development required?

Ans. I don't know that I did at that time; if not then, I did at a subsequent time.

Cross-int. 164. Had you at the time of that visit to Boston formed any idea of the sum such a development would require?

(Objected to.)

Ans. I suppose I may have; but cannot recollect.

Cross-int. 165. Did you communicate to Mr. Head, in or out of the presence of anybody else, your views of the capital such a company would require to develop the mines, and the shares in which the interest [ought] to be divided between the mine proprietor and the capitalists, at the time of that visit?

Ans. I think not, then; I may have. My view then, I mean when I arrived here, was to do the work my plans showed on my own responsibility.

Cross-int. 166. What sum did you state to Mr. Head would be required to be raised for the developement of your plan?

(Objected to.)

Ans. I do not recollect.

Cross-int. 167. Do you mean the court to understand that in all these conversations during that visit between you and Mr.
203 Head and Mr. Parrott, about the formation of a company in which, as you have already stated, you fixed a per centum or compensation in getting up such a company, that you never communicated to these gentlemen, or either of them, what amount of capital you supposed would be necessary to carry out the plan?

(Objected to.)

Ans. I named the sum of eighty thousand dollars as the amount I thought the associates should pay for half the mine, for purchasing materials for developing said mines and harbor. Whether that was stated in June or not I cannot recollect; that was the sum asked by me in October, 1861; I mean on their paying or subscribing the sum of eighty thousand dollars they should have half of the mine.

Cross-int. 168. How many interviews did you have with Mr. Head during that visit to Boston.

Ans. I don't know; I am not certain; I had several.

Cross-int. 169. How many did you have when Mr. Parrott was present?

Ans. I don't know; I had several.

Adjourned to Monday, March 5, at 10 A. M.

MONDAY, *March* 5, 1866.

Cross-examination resumed:

Cross-int. 170. Where did you and Mr. Head on or about November 1st, discuss the question of compensation for getting up this company?

Ans. In Boston; I can't say positively the particular place in Boston; I think likely at the Revere House.

Cross-int. 171. Did you lodge at the Revere House when you came to Boston at that time?

Ans. I think I did; or at the American House.

Cross-int. 172. In your letter of August 31, to Stephen H. Head, "Exhibit X, C. W. T., U. S. com.," you speak of parties in
204 Halifax wishing youto offer the place on somewhat similar terms to a company to be formed there. Who were those parties?

(Objected to.)

Ans. James A. Moran was one; he, Mr. Moran, alluded to other parties; I don't know who they were.

Cross-int. 173. How long did you stay at Halifax at that time?

Ans. I can't recollect; I think not many days.

Cross-int. 174. How many interviews did you then have with Mr. Moran?

(Objected to.)

Ans. I don't know exactly.

Cross-int. 175. What offer did he make you?

(Objected to.)

Ans. He thought a company could be formed in Halifax on the same basis as Mr. Head and Parrott's proposition.

Cross-int. 176. What time did you get to Glace Bay on your return from this June trip to Boston?

Ans. July 6th, I was in Sidney.

Cross-int. 177. Had you any further conversation or correspondence with Mr. Moran on this subject after you left Halifax?

(Objected to.)

Ans. I don't recollect; I think not in writing. When I next saw him we spoke on the subject, possibly.

Cross-int. 178. Did you hear anything from Mr. Head after you left Boston, before you received a letter from him dated August 20?

Ans. Not that I recollect.

Cross-int. 179. Was the certificate for one hundred and twelve shares which form part of the two hundred and twenty-five shares, which you say that you paid to Head and to Parrott in 1862, endorsed by you in blank on the transfer, or how otherwise was the transfer filled up when you delivered them?

Ans. I cannot say positively, as it now has William P. Parrott's name erased. I think it was originally given in blank.

Cross-int. 180. In whose handwriting is the filling up of that blank of that transfer.

Ans. I think William P. Parrott's. Nothing is in my hand but my own signature.

205 Cross-int. 181. When did you first learn that Parrott was to share the compensation with Mr. Head?

Ans. I think not till October, 1861.

Cross-int. 182. How did you learn it then?

Ans. I suppose Mr. Head must have told me.

Cross-int. 183. When and where did he tell you?

Ans. In Boston; when and where I cannot say.

Cross-int. 184. Was it before or after the contract was signed?

Ans. I think before; I won't be positive.

Cross-int. 185. What time did you arrive at Boston on that visit?

Ans. I can't say to a day; it was in October.

Cross-int. 186. About how long were you here?

Ans. I don't know the number of days, possibly fourteen days or more?

Cross-int. 187. When you came to Boston, in June, which did you first meet, Mr. Parrott or Mr. Head?

Ans. Mr. Head, I think.

Cross-int. 188. Do you remember where the first interview with Mr. Head was?

Ans. At Mr. Parrott's office.

Cross-int. 189. At what interview was the subject of the formation of the company first broached between you and Mr. Head?

Ans. I don't know exactly.

Cross-int. 190. Did you discuss with Head the subject of the contract for coal before the question of forming the company came up?

(Objected to.)

Ans. I don't recollect.

Cross-int. 191. What induced you to communicate to Mr. Head your views about enlarging of your works at Glace Bay?

Ans. I can't say particularly. I was in correspondence with Mr. Odiorne on the subject, and had plans which I submitted to him, and no doubt that led to a conversation on that head.

Cross-int. 192. Why did the subject of the contract for coal fall through?

(Objected to.)

Ans. I don't know. There did not appear to be any contract. I don't know of any contract beyond Mr. Hughes's letter.

206 Cross-int. 193. Did you converse with Parrott and Head together about forming a company during that visit of June?

Ans. I think I did.

Cross-int. 194. What was said at that interview?

Ans. I don't recollect particularly.

Cross-int. 195. Who first proposed the idea of forming a company in the conversations between and Parrott and Head?

Ans. My impression is they did.

Cross-int. 196. How many interviews had taken place between you, Head, and Parrott before the proposition of forming a company was suggested?

Ans. I cannot undertake to say how many.

Cross-int. 197. Had there been any such interviews before such suggestion?

Ans. I think there may have been two or three possibly, or more; I can't say positively one way or the other.

Cross-int. 198. What was talked about at these interviews before the project of the company was suggested?

Ans. I don't recollect particularly.

Cross-int. 199. Had you made, either to Head or Parrott, a statement of the capacity of the Glace Bay property for development before the project of the company was suggested?

Ans. Very likely I may.

Cross-int. 200. What is your best recollection on the subject of the last question.

Ans. I have no clear recollection of the details; it is now a long time ago.

Cross-int. 201. When you came up to Boston on the visit last inquired of had you any intention of endeavoring to raise money for the improvement of your Glace Bay property?

Ans. I had, through Mr. Odiorne, as my letters to him on file will show.

Cross-int. 202. Did you make any representations to Head or Parrott concerning your plan to raise money before the project of the company was suggested?

Ans. I cannot say positively one way or the other.

Cross-int. 203. Which of you, Head, Odiorne, Parrott, or
207 Archbold, first suggested, in connection with the object of your visit to Boston, that a company would be the best mode of accomplishing the end you had in view?

Ans. I think Head and Parrott; I could not say positively which. It was not Mr. Odiorne.

Cross-int. 204. Was anything said while you were in Boston in June, on the subject of visiting the mine to ascertain its capacities?

Ans. There may have been.

Cross-int. 205. In your answer in this suit you state that Mr. Parrott suggested to the complainant himself the idea of engaging in the project, and procured his brother-in-law, George Hughes, to write to Archibald as to said mines. Were you present when this suggestion was made?

(Objected to.)

Ans. No; nor do I say that it was so—but that is my impression.

Cross-int. 206. About how long were you in Boston in October, 1861, before the contract was signed?

Ans. I don't know positively; perhaps ten or twelve days; it may be less or more.

Cross-int. 207. Were any negotiations carried on with you as to the contract during that time?

Ans. Yes; the papers were drawn up and executed Nov. 1st.

Cross-int. 208. Did any conversation about the contract take place while the gentlemen were previously at Glace Bay?

Ans. I think so; with Dr. Howe and Capt. Parrott.

Cross-int. 209. Were any efforts made to induce you to give more favorable terms to the undertakers of the enterprise?

(Objected to.)

Ans. The matter was simply spoken of, and my terms asked; nothing conclusive was arrived at there.

Cross-int. 210. Where were your conversations with the undertakers held in Boston?

Ans. At 39 State street.

Cross-int. 211. Did Mr. Head visit you at your lodgings at the Revere House, and talk to you there?

Ans. Yes.

Cross-int. 212. How often did he visit you there before this contract was signed?

208 Ans. He generally called on me daily.

Cross-int. 213. Did you usually walk down together to Capt. Parrott's office?

Ans. Yes.

Cross-int. 214. Alone, or with others?

Ans. Generally alone.

Cross-int. 215. Did the other associates have offices in the same building with Capt. Parrott?

Ans. Not at that time, I think.

Cross-int. 216. Where was the subject of compensation talked over between you and Mr. Head, during this visit, if anywhere?

Ans. At the Revere House, I think.

Cross-int. 217. Who was present?

Ans. I think only Mr. Head and myself.

Cross-int. 218. How many conversations did you and Head have at that visit on this subject of compensation?

Ans. I cannot say.

Cross-int. 219. More than one?

Ans. I presume we may. I think it likely.

Cross-int. 220. During that visit had you any talk with Head as to compensation at any other place than at the Revere House?

Ans. I may have at Parrott's office; perhaps in the street?

Cross-int. 221. Were these conversations before the contract was signed or after?

Ans. I think before the first of November.

Cross-int. 222. How long did you remain in Boston after the first of November?

Ans. Not long; I think I left the next day; I will not be positive.

Cross-int. 223. At which of these conversations, at the Revere House, on compensation was it that Head told you, as you say in your answer, that twenty-five per cent. was the common rate of compensation for similar services?

Ans. I cannot say which.

Cross-int. 224. On how many different occasions since the transfer of two hundred and twenty-five shares has Mr. Head orally claimed of you that there was a balance yet due on compensation?

Ans. I think two, one in September, 1864, in Boston, and

209 one in November, 1864, in Glace Bay. In my answer to this suit I was in error in stating that he first made this claim on me in the spring of 1864; on referring to my memoranda I find it was in September, 1864.

Cross-int. 225. Who was present at the interview in September, 1864, when this claim was made by Head?

Ans. I don't recollect.

Cross-int. 226. Who was present in November, 1864?

Ans. Capt. Parrott, for a few minutes.

Cross-int. 227. Whether or not, during the fall of 1862 and 1863, there was not an important difference of opinion among the stockholders of this company concerning the use, and mode of use, of the back leases held by individuals connected with the company; and if so, when was that matter of back leases adjusted or settled?

(Objected to.)

Ans. I think in September, 1862, or July, 1863, there was a discussion as to whether those back leases should be purchased by the Glace Bay Company, when it was decided that it was not for the interests of the company to purchase them. These back leases were held by Capt. Parrott, J. W. Emery, Estes Howe, G. G. Hubbard, J. H. Converse, G. F. A. LeCain, and E. P. Archbold. James A. Moran and S. H. Head had no interests in said leases.

Cross-int. 228. Who informed you that Head originally applied to you for employment in this matter of the mine at the instance of Mr. Parrott?

(Objected to.)

Ans. I cannot say I was informed by any one; that is my impression simply.

Cross-int. 229. At what time, and where, did Mr. Head represent to you that he was a person possessing a large acquaintance and influence with the capitalists and men of influence in Boston, and had power and capacity to induce them to embark in said enterprise, as stated in your answer?

(Objected to.)

Ans. In June, 1861, in Boston.

Cross-int. 230. Was Mr. Parrott present when Head, as you say in your answer, made this representation?

(Objected to.)

210 Ans. I do not recollect that he was.

Cross-int. 231. Was Mr. Head present when Mr. Parrott, as you say in your answer, made such representation to you about Head?

(Objected to.)

Ans. I cannot say.

Cross-int. 232. How long had you been the owner of the Glace Bay property at the time you came to Boston in June, 1861?

(Objected to.)

Ans. Four or five years.

Cross int. 233. When did you obtain your first mining lease or license near Glace Bay, and how many acres were embraced in that lease?

(Objected to.)

Adjourned to Tuesday, March 6, at 10 a. m.

TUESDAY, *March* 6.

Cross-examination resumed:

Ans. About 1857; there were over a thousand acres in that lease.

Cross-int. 234. When did you buy the tract of land that you transferred to the company, and how many acres did it contain?

(Objected to.)

Ans. About the year 1857 or 1858. There was between two and three hundred acres.

Cross-int. 235. Whom did you buy this land of, and what did you pay an acre for it?

(Objected to.)

Ans. Some from the government, and some from private individuals. I paid forty-four cents per acre for one hundred and fifty-eight acres, bought of the government; that purchased from private individuals, I cannot say what it cost.

Cross-int. 236. About what price did it cost?

(Objected to.)

211 Ans. I don't exactly know; not exceeding twenty dollars an acre.

Cross-int. 237. Did the price exceed ten dollars an acre?

(Objected to.)

Ans. I don't know; some of it, I think, did.

Cross-int. 238. How much of it did?

(Objected to.)

Ans. I am not prepared to say.

Cross-int. 239. Give the names of the private individuals from whom you purchased this land and the quantity you purchased of each.

(Objected to.)

Ans. Ronald Black, I don't know the quantity of him. Widow Currie, I don't know how much of her. Widow McPherson, I don't know how much of her. A man named Richard McDonald, I don't know how much of him.

Cross-int. 240. How much did you pay each of these parties for their land?

(Objected to.)

Ans. I don't exactly recollect; some one price and some another.

Cross-int. 241. State as nearly as you can recollect how much you paid each for the land.

(Objected to.)

Ans. I cannot, sir, because I don't recollect. I have no means at present of reference.

Cross-int. 242. Were these of wild land, or improved land?

(Objected to.)

Ans. Some improved, principally wild.

Cross-int. 243. Did you pay as much as a thousand dollars for the land you bought of individuals and transferred to the company under your contract?

(Objected to.)

Ans. I can't say. A considerable portion of the purchase con-

sideration consisted in services performed for parties from whom I purchased the land.

Cross-int. 244. What did you pay government for the lease you held when you made the contract?

(Objected to.)

Ans. Seventy dollars for license to search, and for lease.

212 Cross-int. 245. How much land did this lease purport to include?

(Objected to.)

Ans. Six hundred and fifty acres.

Cross-int. 246. Whether or not the expenses incurred after the conveyance concerning the other three hundred and sixty acres included in the boundaries named in the lease, were borne by yourself or the company?

(Objected to.)

Ans. By the company.

Cross-int. 247. Was there not considerable expense in settling the title to that three hundred and sixty acres of the lease?

(Objected to.)

Ans. It cost fifty dollars for an additional lease and my expenses obtaining the same.

Cross-int. 248. Whether or not the improvements which you put on this land conveyed to the company, were not appraised at the time of the conveyance?

(Objected to.)

Ans. I think not.

Cross-int. 249. Were they appraised at any other time?

(Objected to.)

Ans. The whole property has been appraised, I mean the whole stock, and fee simple.

Cross-int. 250. What improvements had you put on this property before contracting with the associates?

(Objected to.)

Ans. I had opened three pits, built two wharves, made roads to pits, and tramways, built two or three houses, and furnished equipments for carrying on mining operations.

Cross-int. 251. How deep were the pits?

(Objected to.)

Ans. The greatest extent, before reaching coal, was not more than one hundred and fifty feet on the incline.

Cross-int. 252. Had you any steam engines on the premises?

(Objected to.)

Ans. No.

213 Cross-int. 253. How many horses or cattle were conveyed to the associates by you?

(Objected to.)

Ans. Two horses.

Cross-int. 254. How long was the tramway?

(Objected to.)

Ans. Some one or two thousand feet; I don't recollect exactly.

Cross-int. 255. What had it cost?
(Objected to.)
Ans. I can't say. I know at the time I was in debt to the mines.
Cross-int. 256. Was this tramway covered with strap or bar iron?
(Objected to.)
Ans. I think not; some portion was iron, I think; the wheels themselves were grooved to run on iron.
Cross-int. 257. How much had the permanent improvements and stock of this mine cost you at the time the contract was made?
(Objected to.)
Ans. I don't know exactly.
Cross-int. 258. How much do you think they had?
(Objected to.)
Ans. Possibly twenty or thirty thousand dollars—perhaps forty; it may not be as much as either.
Cross-int. 259. How many houses did you build, and what did they cost?
(Objected to.)
Ans. I think three. They were log houses—the cost not large.
Cross-int. 260. What was the length of each of your wharves, and what the cost of each?
(Objected to.)
Ans. One was about one hundred feet; I don't know how much it cost; it was a block wharf, with stone ballast and iron fastenings and planks. The other wharf, perhaps five hundred feet long, including stone work, cut through, wooden blocks, stone ballast, iron fastened, jutting into the sea. It cost a considerable sum; I don't know how much.
Cross-int. 261. Did the tramways lead to each wharf?
(Objected to.)
214 Ans. Yes; there was a third wharf—a shifting wharf.
Cross-int. 262. How much of the five hundred feet was wharf?
(Objected to.)
Ans. It was from a hundred and twenty to one hundred and fifty feet—perhaps two hundred.
Cross-int. 263. What year did you first lift coal out of the mine?
(Objected to.)
Ans. I think in 1858—perhaps before.
Cross-int. 264. How many tons did you ship in 1858?
(Objected to.)
Ans. I cannot now say.
Cross-int. 265. About how many?
(Objected to.)
Ans. I cannot say exactly—perhaps a thousand, perhaps more, perhaps not so much.
Cross-int. 266. About how many tons did you ship in 1859?
(Objected to.)
Ans. I don't recollect; it was more than in 1858.
Cross-int. 267. About how many tons did you ship in 1860?
(Objected to.)

Ans. I don't know; more than in 1859.

Cross-int. 268. Did you ship as much as two thousand tons in 1860?

(Objected to.)

Ans. I don't know exactly; but think I shipped more than double that.

Cross-int. 269. Did you ship as many as two thousand tons in 1859?

(Objected to.)

Ans. I don't recollect, but think I did.

Cross-int. 270. Did you ship as many as twenty-five hundred tons in 1859?

(Objected to.)

Ans. I cannot say; I don't recollect.

Cross-int. 271. How many tons did you ship in 1861?

(Objected to.)

Ans. I don't recollect. I think somewhere about seven thousand, perhaps less, perhaps more.

215 Cross-int. 272. How many tons were shipped from Glace Bay mine in 1865?

(Objected to.)

Ans. Over eighty-two thousand.

Cross-int. 273. When did you get your longest wharf so that vessels could take coal from it?

(Objected to.)

Ans. I think in 1859, possibly in the fall of 1858.

Cross-int. 274. What was the depth of water at the short wharf before you contracted?

Objected to.)

Ans. Not over four feet; it was used for lighters or scows.

Cross-int. 275. Have you any accurate account of the cost of the improvements and stock of your mine, at the time of the contract with the associates, distinguished from ordinary expenses, and wear and tear of working it during the time you worked it?

(Objected to.)

Ans. I have not.

Cross-int. 276. How much had you spent on the wharves prior to your contract of sale?

(Objected to.)

Ans. I can't say; possibly eight or ten thousand dollars, perhaps more, perhaps less; they cost me a good deal.

Cross-int. 277. Had either of them been carried away while you owned them?

(Objected to.)

Ans. No, not while I owned them. The large one is yet standing; the small one we stripped, after which the frame work was carried away. This was in 1862 or 1863.

Cross-int. 278. Did you keep a book account with the mines while you owned them?

(Objected to.)

Ans. I did.

Cross-int. 279. Had they paid for themselves at the time of the contract?

(Objected to.)

Ans. Yes.

216 Cross-int. 280. What profit per ton, on the average, did these mines pay during the years 1859 and 1860?

(Objected to.)

Ans. I don't know.

Cross-int. 281. What was the selling price of the coal at those mines in 1859 and 1860?

(Objected to.)

Ans. I mostly shipped on my own account. What I sold at the mines, I think, sold for two dollars per ton.

Cross-int. 282. What was the selling price of coal at the mine in 1861?

(Objected to.)

Ans. Either two dollars, or two dollars fifty cents.

Cross-int. 283. What was the cost of hauling of the coal from the mine and putting on board in 1859, 1860, and 1861, respectively.

(Objected to.)

Ans. I can't say exactly; the price varied according to circumstances.

Cross-int. 284. Within what limits did it vary?

Within twenty cents. I mean between the highest and lowest.

Cross-int. 285. What was the highest cost and the lowest cost of hauling it and putting it on board within those years?

(Objected to.)

Ans. I can't exactly say; I made no average.

Cross-int. 286. Do you intend us to understand that you are unable to give an estimate of what it cost you to do the hauling, and putting on board the coal, during the years as here before asked, because you have always been ignorant upon this subject?

(Objected to.)

Ans. No. I mean I was not ignorant on the subject, but have no reference. The coal was shipped under various circumstances; one day put direct into the vessel; at other times it had to be scowed. Some vessels loading altogether at the wharf, when the cost of loading was small; some partly loaded at the wharf, and finished by scowing it to the vessel.

217 Cross-int. 287. What did you estimate in 1859 and 1860, to be the actual cost of mining and putting your coal on the wharf for the purposes of shipping?

(Objected to.)

Ans. I think, about sixty cents; perhaps a little less, perhaps a little more.

Cross-int. 288. What did you estimate in 1861, to be the actual cost of mining the coal and putting it on the wharf for shipping?

(Objected to.)

Ans. It was more, I think, in 1861, than previously.

Cross-int. 289. What depositions taken in this suit, or copies of what depositions taken in this suit, have you read or have been read to you?

Ans. Capt. Parrott's, Mr. Hubbard's, Mr. Emery's, Mr. Odiorne's and Mr. Hughes's.

Cross-int. 290. When did you first learn that Mr. Parrott was to share the compensation with Mr. Head?

Ans. I think, in October, 1861; I won't be sure.

Cross-int 291. Did you learn it before or after the contract was signed?

(Objected to.)

Ans. I think before.

Cross-int. 292. Referring to the conversations in the year 1864, which you had with Mr. Head, in which he claimed that his whole compensation had not been paid to him, I wish to ask whether or not in September, you had two conversations with Mr. Head on that matter, the second one being on the steamer when you were about leaving the wharf, or when you were about leaving the wharf, the other having been a day or more previous to that time?

(Objected to.)

Ans. I have no recollection of any allusion being made to the subject on board the steamer, or while going there. I think the conversation was the day I left Boston; possibly it may have been the previous day?

Cross-int. 293. Do you remember whether or not Mr. Parrott was present when this conversation of September, 1864, concerning the five per cent. took place with Mr. Head?

(Objected to.)

218 Ans. I think he was in the next office.

Cross-int. 294. Where did this conversation take place?

(Objected to.)

Ans. My impression is, at Mr. Parrott's office.

Cross-int. 295. Was the conversation at all excited in manner between Mr. Head and you?

Ans. Mr. Head may have been excited, but I was amazed at the demand.

Cross-int. 296. How long did this conversation last?

Ans. Not very long; I can't say the exact time; a few minutes only.

Cross-int. 297. Do you recollect, or have you any impression, that Mr. Parrott heard this conversation and made a suggestion that if you had a memorandum of the settlement at home, the discussion of this matter better be postponed till your return home, as you stated in the answer, to Glace Bay, whither all three of you were soon going?

Ans. My impression is, Capt. Parrott may have heard the conversation, or a part of it; but I have no recollection of his interfering one way or the other, or speaking on the subject at that time.

Cross-int. 298. Whether before you reached Glace Bay, you met Mr. Head in Halifax directly after this time.

Ans. It strikes me I may. I am not positive.

Cross-int. 299. Have you any recollection of Mr. Head bringing up the subject of five per cent. in conversation with you at Halifax one evening and your having a discussion on the subject?

Ans. It appears to me he spoke on the subject while in Halifax.

Cross-int. 300. When you reached Glace Bay, in October, 1864, did you show Mr. Parrott or Mr. Head a memorandum of the price agreed between you and Mr. Head for his services?

Ans. No. The only memorandum I then had was a calculation of the fifteen per cent. My other memorandum must have been lost with my portmanteau, on returning to Halifax in November, 1861. The one I had, I showed to them.

Cross-int. 301. Did you have more than one conversation in October, 1864, with Mr. Head on this subject of five per cent. he still claimed?

Ans. I recollect one, just before he left—whether in October or November, I can't say.

219 Cross-int. 302. At what place was that?

Ans. In the company's house.

Cross-int. 303. Was Mr. Parrott present through the whole of it?

Ans. No. I think he felt ashamed, and left.

Cross-int. 304. Did Parrott say anything in this conversation?

Ans. I think not.

Cross-int. 305. Did you appeal to him during the conversation?

Ans. I think not. No.

Cross-int. 306. Had not the stock of the Glace Bay Mining Company been doubled since this suit began?

(Objected to.)

Ans. Yes.

WEDNESDAY, *March 7th*, 1866.

Re-direct examination resumed by counsel for respondent, de bene esse.

Int. 1. Were you present at the meeting of the directors of the Glace Bay Mining Company, held Sept. 16th, 1862, at which meeting the issue of your seven hundred and fifty shares of stock was authorized?

(Objected to.)

Ans. I was.

Int. 2. State whether or not, if you know, said Wm. P. Parrott was also present at said meeting when the issue to you of said stock was voted by said directors?

(Objected to.)

Ans. He was.

Int. 3. Did or not you meet said Head in Boston upon your arrival here in October, 1861?

(Objected to.)

Ans. I did.

Int. 4. How soon after your arrival in Boston did you meet him?

(Objected to.

220 Ans. I think the day of my arrival. He called on me at the Revere House.

Int. 5. Did you have any conversation?

(Objected to.)

Ans. No doubt I did,

Int. 6. Did said Head then, or ever, say to you, or intimate in any way, that he had not received your reply to his said letter to you?

(Objected to.)

Ans. Never.

Int. 7. Did you ever promise to pay to said Head a commission of twenty per cent. for his services; or admit to him that you had made such an agreement?

Ans. I never promised twenty per cent. to him, nor admitted to any person, nor ever said to any person, that I had promised him twenty per cent.

Int. 8. State, if you know, whether or not said Head was present at the office of Messrs. Hubbard, and others where and when the contract between yourself and the associates was signed.

(Objected to.)

Ans. He was not.

Int. 9. Did or did not said Head and Parrott leave that office in in company with yourself that day?

(Objected to.)

Ans. I think not.

Int. 10. In answer to cross-interrogatory number sixty-three, and to some other interrogatories on cross-examination, you stated that Mr. Head, while you were in Boston on your visits here in June and October, 1861, generally called on you each morning at your hotel and took you to Capt. Parrott's office? Please state what was the occasion of his doing this.

(Objected to.)

Ans. To talk business matters with Capt. Parrott; and for the purpose of showing civility, and taking me to different sights and scenes here.

Int. 11. State in general, the nature of the services rendered to you by Messrs. Head and Parrott, respectively, in connection with the project which resulted in the making of the contract of November 1, 1861.

221 (Objected to.)

Ans. Mr. Parrott did all the business in point of fact. Mr. Head did little on the matter of the business of making the contract except to agree with Capt. Parrott's propositions.

Int. 12. Did Mr. Head ever name to you any persons upon whom he relied to take a pecuniary interest in the Glace Bay enterprise, during your stay in Boston in June, 1861?

(Objected to.)

Ans. No.

Int. 13. What was the business that brought you to Boston in June, 1861?

(Objected to.)

Ans. To see Atherton, Hughes & Co. relating to selling them five thousand tons of coal they wrote about, as wanted from the Glace Bay mines.

Int. 14. In your answers to cross-interrogatories one hundred and fifty-two and one hundred and fifty-three, you mention that you brought with you to Boston on said visit in June, 1861, certain plans and papers, descriptive of your property at Glace Bay; please state what your purpose was in then bringing the said plans and papers to Boston?

Ans. To show them to Mr. F. H. Odiorne, my agent in Boston for the sale of coal, and general business, with whom I was in correspondence with reference to loaning money to carry out the plans I had then with me; he having given me to understand that I could obtain money for that purpose from some of his friends.

Int. 15. For what purpose did you leave one of the said plans with Mr. Odiorne when you left Boston?

Ans. For the same reason for which I brought it.

Int. 16. Describe these plans generally, and the object for which they were made.

(Objected to.)

Ans. The plans showed little Glace Bay brook with the bar between it and the sea; the depth of water inside and outside and the nature of the bar and the bottom in general, showing there was nothing to prevent its being deepened. The plan showed where the piling should be made, all of which has been carried out by the Glace Bay Mining Company; and also showed where the old bridge
222 was and where the new one should be erected in its place.

(Counsel for complainant objects to the whole of the last answer.)

Int. 17. Are the said plans, or either of them, now in your possession?

Ans. I have one at home.

Int. 18. After you met said Parrott and said Head on your visit to Boston in June, 1862, was anything said to you by them, or either of them, and if so, what, about purchasing Glace Bay coal of you?

Ans. Being referred to them by Mr. Hughes of the firm of Atherton, Hughes and Company, as the parties requiring the coal, and speaking to them, Parrott and Head, on the subject I found it was simply to draw out information from me relating to the capabilities of the mine; they showed no disposition to purchase or appear to want the coal.

Int. 19. Please state, if you are able, when the discussion among members of the Glace Bay Mining Company as to the question of the back leases, mentioned in your answer to cross-interrogatory 227, arose, and when it ended and how long the matter was pending.

Ans. It was commenced at a stockholders' meeting at Glace Bay, July, 1863, and then postponed for further consideration until the next meeting held in Boston in Feb., 1864, when the matter was decided.

Int. 20. State how the stockholders in the Glace Bay Mining Com-

pany were divided in interest or opinion on the matter of the back leases and on which side were they respectively.

Ans. Messrs. Moran, Parrott, Head, Paulin and myself were unanimous for deciding not to purchase those leases. Messrs. Emery, Con-Converse, Howe and Hubbard advocated the opposite course.

Int. 21. Between Sept. 16, 1862, the time when you delivered the two hundred and twenty-five shares of stock to Messrs. Parrott and Head, and the time in July, 1863, when the question about the back leases arose, did you or not meet and converse with the said Head?

(Objected to.)

Ans. Yes, frequently.

Int. 22. Did you, or not, during said period of about ten months meet and converse with him on more than one occasion?

(Objected to.)

Ans. Yes, frequently.

223 Int. 23. How often during said period, and for what length of time, and where, were you in company with said Head?

(Objected to.)

Ans. I saw him the next morning after the payment of the stock, in Boston. I afterwards met him at Glace Bay, on the 6th or 7th of July, 1863. I was with him several days.

Int. 24. What renders you unable to answer more definitely as to the cost of your property at Glace Bay, and the sums realized by you from sales of coal raised from said mine, and your other business transactions connected with the said property and business, inquired about on your cross-examination?

Ans. I have no reference at hand. My books are now at Glace Bay which show the whole transaction. Since my agreement with the Glace Bay Company, I have had no occasion to consult with them, and do not like to name exact figures or sums that I am not certain of.

Int. 25. Have you or not any objection to producing to the counsel for the complainant the memorandum made by you of the calculation and payment of stock, mentioned in your answer to the sixty-sixth cross-interrogatory, for the purpose of having it annexed to your deposition?

(Objected to.)

Ans. I have not; and hereby tender it, if required, for that purpose.

Re-cross-examination resumed:

Cross-int. 1. Do you know whether said Head was ever present at the office of Messrs. Hubbard and others while you were there, in October or November, 1861?

Ans. I think not.

Cross-int. 2. Are you sure of this fact?

Ans. To the best of my memory, he was not.

Cross-int. 3. Did not said Head and Parrott leave said office in company with yourself on a certain day in October or November, 1861?

Ans. I can't recollect that they did; I think not.

Cross-int. 4. Did they ever go down the stairs leading from said offices to the street with you during the months of October and November, 1861?

224 Ans. I think not.

Cross-int. 5. Are you sure of this?

Ans. To the best of my memory, I think not.

Cross-int. 6. At the interviews inquired of in re-direct question ten, you and Mr. Head talked over the matter of the sale of your mine together, did you not?

Ans. I have no doubt we did.

Cross-int. 7. At the time you came to Boston in June, 1861, how much coal were you raising per month from your mines?

(Objected to.)

Ans. I shipped about seven thousand tons that year.

Cross-int. 8. Had you any orders for coal at that time which were not filled?

Objected to.)

Ans. I don't know that I had at that time any particular orders. I may have had. I generally sent all my coal for the United States to Mr. Odiorne.

Cross-int. 9. Did you experience any difficulty in selling all the coal you could raise and ship at that time from your mine?

(Objected to.)

Ans. I sold all that I raised and shipped; but, as before stated, a portion of it was consigned. I would have preferred a positive sale or contract.

Cross-int. 10. Did you, at the first, agree in opinion with Messrs. Moran, Parrott, Head, and Paulin as to the matter of the back leases?

Ans. I think so.

Cross-int. 11. Were you not undecided for a long time as to which party you would act with as to that matter?

Ans. No.

Cross-int. 12. Were you always against purchasing said back leases?

Ans. Not after I came to consider the matter.

Cross-int. 13. You did finally vote against purchasing them, did you not?

Ans. Yes.

Cross-int. 14. When did you finally decide to vote against purchasing them?

Ans. I think in July, 1863, between then and February, 1864.

225 Cross-int. 15. How long was it before the meeting of the stockholders at Glace Bay in July, 1863, that this matter of the back leases began to be agitated, as near as you can recollect?

Ans. I think not until that meeting; it was then brought up.

Cross-int. 16. When did you first hear anything said of the matter?

Ans. When it was proposed at that meeting.

Cross-int. 17. Had you not heard said matter discussed until it was proposed at said meeting?

Ans. I think not.

Cross-int. 18. Where did you meet Head on the sixth of July, 1863?

Ans. I don't know that I met him till the seventh of July; either at Sidney or Glace Bay.

Cross-int. 19. Did you meet said Head alone previous to the meeting of said company?

Ans. I can't say; I may have. I think he accompanied Mr. Moran and Paulin from Halifax to Glace Bay.

Cross-int. 20. What do you mean by the word frequently in answer to the re-direct question twenty-one?

Ans. I mean our interviews at Glace Bay between the seventh and fifteenth of July, 1863.

EDWARD P. ARCHBOLD.

Deposition of Joseph H. Converse.

WEDNESDAY, *March* 8, 1866.

Int. 1. Please state your name, age, residence and occupation.

Ans. My name is Joseph H. Converse; age forty years; reside at Cambridge; I am a merchant.

Int. 2. If you are acquainted with the parties to this suit, please state how long you have known them, respectively.

Ans. I am. I first met Mr. Head, to know him, in the month of November, 1861. I first met Mr. Archbold in September of the same year.

226 Int. 3. Was your first meeting with Mr. Head, referred to in your last answer, before or after the signing of the contract which is dated Nov. 1st, 1861, entered into between yourself and others on the one part, and Mr. Archbold of the other part?

Ans. After.

Int. 4. State how you happened to meet Mr. Head at the time referred to by you, where the meeting was, and who were present.

Ans. Mr. Head was employed by Capt. Parrott to superintend the shipping of some machinery we had purchased, and I met him upon the wharf in company with Capt. Parrott.

Int. 5. Had you previously known of Mr. Head in any way, and if so, when and how?

Ans. I had only known of him as I had heard Capt. Parrott speak of him.

Int. 6. Had, or not, Mr. Head, to your knowledge, been employed in any way by the associates who entered into the said contract with Mr. Archbold, and if yea, state all that you know as to such employment, if any?

(Objected to.)

Ans. Upon the recommendation of Capt. Parrott to the associates alluded to, Capt. Parrott was authorized to employ Mr. Head to visit New York for the purpose of examining a dredge said to be for sale there, subsequently to the date of the contract. Subsequent to that visit to New York, Mr. Head was employed by Capt. Parrott to

superintend the construction of machinery and the shipment of the same.

Int. 7. What machinery was this and to whom did it belong?

Ans. The particular machinery he superintended the construction of was the dredge, and it belonged to the associates under said contract.

Int. 8. Did any one of the said associates have the charge of the financial affairs of the parties under the said contract, and if yea, who was it?

(Objected to.)

Ans. They did; I had charge of them myself.

Int. 9. Do you know whether or not any payment was made to Mr. Head for his services rendered to the associates above mentioned by you?

(Objected to.)

227 Ans. There was.

Int. 10. State all that you know of that matter.

(Objected to.)

Ans. Previously to Mr. Head's being employed by said associates, Capt. Parrott had stated to us that Mr. Head would be a valuable man to visit New York to examine the dredge and to attend the mechanical business relating to the collecting together and the shipping of the machinery, as he was a regular bred mechanic; for which his travelling expenses, and ten dollars per day, were paid by me, while employed, for the associates.

Int. 11. Did you take any receipt from Mr. Head for the said payment; and, if yea, will you please produce the same and annex it to your deposition?

(Objected to.)

Ans. I took a receipt from Mr. Head, through Capt. Parrott, which I now produce and annex a copy of the same. I object to part with the original. The said copy is annexed, and marked "CC, C. W. T., U. S. com."

(Counsel for complainant objects to the use of said paper.)

Int. 12. Are you or not familiar with the handwriting of William P. Parrott, and the signature of S. H. Head; if yea, please examine the signature to the said original receipt, and also the words in the left-hand corner of said receipt—"Approved, William P. Parrott,"—and state in whose handwriting said signature and said words, "Approved, William P. Parrott," are, upon the same respectively, if you know.

(Objected to.)

Ans. I am familiar with the handwriting of Capt. Parrott and the signature of Mr. Head. I have no doubt the signature of Mr. Head, on the receipt, is his own; and the signature of "William P. Parrott" and the word "approved" alluded to, in the left-hand corner of the bill, approving the same, is the handwriting of Capt. Parrott.

Int. 13. State, if you know, whether or not the full amount of two hundred and six dollars, receipted for by Mr. Head, as above, was paid to him by you.

Ans. Capt. Parrott presented to me the bill, receipted, and I paid it to him.

Int. 14. Who first brought to your attention the project of
228 purchasing Mr. Archbold's mining property at Glace Bay, and what induced you to enter into the said contract with Mr. Archbold, dated November 1, 1861?

Ans. Mr. Gardiner G. Hubbard and William P. Parrott entered my office together. Mr. Hubbard desired I would listen to a proposition Mr. Parrott had to make relating to coal. Capt. Parrott then stated that there was a valuable coal property to be had at Glace Bay, upon very advantageous terms, as the owner of it had not capital sufficient to properly develop the mine, and desired to interest parties in Boston to join him in furnishing capital sufficient to properly develop the mine, and receive therefor one half of said property. And upon consultation with Messrs. William P. Parrott, James W. Emery, Estes Howe, and Gardiner G. Hubbard, it was decided that Mr. Parrott should write to Mr. Archbold for further information, and if the reply was of a satisfactory character a committee from among the aforementioned gentlemen should visit Glace Bay for the purpose of determining whether it was a project they cared to enter into. Sometime during the month of September, 1861, William P. Parrott, James W. Emery, Estes Howe, and myself, visited Glace Bay, made the examination which led to the contract of November 1, 1861, with Mr. Archbold. Capt. Parrott, who was an engineer, stated to us that in his belief a good harbor could be made in Little Glace Bay, which would be safe for shipping purposes; and from his testimony, and our own judgment, as to the practicability of making a harbor, believing at that time the real value of the property depended upon that, we were induced to make the contract with said Archbold, in November, 1861.

Int. 15. When was it that Mr. Hubbard requested you to listen to Mr. Parrott's statement, mentioned in your last answer?

Ans. The very last of July, or first of August, 1861.

Int. 16. When did you go to Glace Bay?

Ans. I left here in Sept., 1861.

Int. 17. Was the project of purchasing Mr. Archbold's mine, or an interest therein, presented to your attention by any other person, or in any other manner, than by the persons and in the manner mentioned in your answer to the fourteenth question?

Ans. It was not. Subsequent to the first interview above
229 mentioned, there were frequent conferences between Messrs. Parrott, Emery, Howe, Hubbard, and myself, and none others.

Int. 18. After the visit made by yourself and your said associates to Glace Bay, in Sept., 1861, did Mr. Archbold visit Boston, and were there any negotiations between yourselves and him personally, previous to the making of the contract of Nov. 1, 1861?

Ans. Mr. Archbold did visit Boston subsequent to our visit to Glace Bay in Sept., 1861; we had frequent conferences with Mr. Archbold, but, by an understanding among ourselves, it was agreed that William P. Parrott and Estes Howe should act as a committee in behalf of the

associates, to negotiate with Mr. Archbold; consequently the other parties did not negotiate directly with Mr. Archbold.

Int. 19. Where were the conferences, mentioned by you in your last answer, held?

Ans. Chiefly in the offices occupied by James W. Emery and Estes Howe, at 39 State street.

Int. 20. Was Mr. Head present at any of those conferences?

Ans. Never, to my knowledge.

Int. 21. State, if you know, what means, if any, were taken by the associates to ascertain the cost and feasibility of the improvements contemplated under the proposed contract with Mr. Archbold before the same was executed.

(Objected to.)

Ans. The associates requested Capt. Parrott to furnish an estimate of what he thought it would cost, which he did.

Int. 22. Do you know whether or not Capt. Parrott made any personal examination at Glace Bay before giving you his said estimate?

(Objected to.)

Ans. He did. He made one general examination in company with his associates, who visited Glace Bay with him; and on the day following, a more particular and thorough examination.

Int. 23. Where was the contract with Mr. Archbold, of Nov. 1, 1861, signed?

(Objected to.)

Ans. In the office occupied by J. W. Emery and Estes Howe, at 39 State street, Boston.

Int. 24. Was Mr. Head present at the signing of the said contract?

230 (Objected to.)

Ans. No.

Int. 25. Did Mr. Head, to your knowledge, perform any other services in connection with the improvements and work on the property at Glace Bay, than that mentioned by you in your answer to the sixth question; if yea, what?

(Objected to.)

Ans. In March of 1862, Mr. Head accompanied Capt. Parrott to Glace Bay, and was employed by Capt. Parrott to assist in developing the mining property, up to about the last of June of the same year, for which he was paid by the associates at the rate of five dollars per day. In the month of October of the same year, Mr. Head called upon me, and said, if I would loan him one thousand dollars for one year on his note, with ten shares of Glace Bay mining stock as collateral, at simple interest, he would take the first conveyance to Glace Bay and give his services for the balance of the season, or as long as Capt. Parrott should remain there, in assisting to develop the mining property, or in such a way as Capt. Parrott should desire, without charge. In December of the same year I visited Halifax for the purpose of examining Mr. Archbold's accounts, in company with Capt. Parrott, and I found, among the bills paid by Mr. Archbold, one paid to S. H. Head for labor in repairing a boiler. I loaned him the one thousand dollars according to his proposition.

Int. 26. Did Stephen H. Head, the complainant, ever do or say anything that contributed in any degree to induce you to enter into the contract with Mr. Archbold of November 1, 1861; or to interest you in the enterprise contemplated by said contract, in any way or at any time?

Ans. No.

Int. 27. Did Mr. Head ever to your knowledge do anything to induce the making of said contract with Mr. Archbold, or aid in the formation of the Glace Bay Mining Company in any way?

Ans. No; not to my knowledge.

Int. 28. Did you ever learn that Mr. Head had an agreement with Mr. Archbold for a commission connected with the making of said contract or the forming of said company?

(Objected to.)

Ans. I never did until since the commencement of this suit.

231 Int. 29. Did you ever learn that your own associate under said contract—the said William Parrott—had an agreement with said Head, by which he was to receive from Head one-half of the commission to be paid by Mr. Archbold for the making of said contract?

(Objected to.)

Ans. Not until I had read William P. Parrott's deposition in this suit.

Int. 30. Were you not clerk of the Glace Bay Mining Company in the year 1862? If yea, please examine the book now shown you, and state whether or not it is the book of original records of the proceedings of the stockholders of said company at their meetings, made and attested by you as such officer of said company.

Ans. I was; and the book shown me is the book having the original records of said meetings, made by me, as such officer.

(Objected to.)

Int. 31. Will you turn to the record of the meeting of said stockholders, held Sept. 9, 1862, and annex the said record to your deposition?

(Objected to.)

Ans. I have turned to it, and it appears on pages 12, 13, and 14, of said book. I have no authority to deliver the book of records, but will furnish a copy of said record, and the same is marked "DD, C. W. T., U. S. com."

(Counsel for complainant objects to the use of said book.)

Int. 32. Were you or not treasurer of the said Glace Bay Mining Company during the year 1862?

Ans. I was.

Int. 33. State, if you know, whether or not Mr. Archbold ever did deliver the several papers and perform his obligations recited in the said record of the proceedings of the said stockholders; and, if yea, when did he deliver and perform the same?

Ans. He did execute and deliver the same to me between the 9th day of September, 1862, and the 16th day of same month.

Int. 34. State whether or not you, yourself, as such treasurer, there-

upon did anything in consequence of the said delivery and performance by Mr. Archbold, under the vote of the said stockholders, passed at their said meeting of September 9, 1862.

232 (Objected to.)

Ans. I did; I issued to him certificates of stock of said company, to the amount of seventy-five thousand dollars, on the 15th or 16th day of September, 1862.

Cross-interrogatories, de bene esse, proposed by M. E. Ingalls, esq., of counsel for complainant.

Cross-int. 1. On what day of the month was it that Capt. Parrott and Mr. Hubbard came into your office, as testified to by you in answer to the fourteenth direct question?

Ans. I don't remember.

Cross-int. 2. Did you have a consultation with Mr. Emery and Mr. Howe the same day?

Ans. I think I did.

Cross-int. 3. This was in August, was it not?

Ans. I have stated that it was the last of July or first of August.

Cross-int. 4. Were the offices open or closed at the time of the conferences mentioned by you in answer to the eighteenth direct question?

Ans. My recollection is, that they occurred during the regular business hours of the day when the offices were open.

Cross-int. 5. Did you know Mr. Head at that time by sight?

Ans. No.

Cross-int. 6. Could he not have entered said offices during one or more of said conferences and passed out without your remembering it?

Ans. He could not, to be a party to the conference, but might have passed into the office as many others did without being noticed.

Cross-int. 7. Do you know the value of the services rendered by Mr. Head to the Glace Bay Mining Company from March to July, 1862?

Ans. Only as appears from his bill which was paid.

Cross-int. 8. Do you know whether or not Capt. Parrott measured the depth of water over the bar at Little Glace Bay previous to his making the estimate referred to by you in answer to the twenty-first direct question?

Ans. I do not know whether he did it personally or not.

Cross-int. 9. Is there, upon the record book, identified by

233 you in answer to the thirtieth direct question, any vote relative to the issue of stock to E. P. Archbold, excepting the one of Sept. 9, 1862?

Ans. I don't find any.

Cross-int. 10. Does said book contain the record of all votes passed by the stockholders of the Glace Bay Mining Company during the month of September, 1862?

Ans. Yes, sir, it does.

Cross-int. 11. Have you any record of the votes passed by the directors of said company during said month of Sept., 1862?

Ans. I have.

Cross-int. 12. Will you examine the same and see if there is any record of a vote of said directors authorizing the issue of stock to E. P. Archbold during said month?

Ans. There is none; the directors never vote on the issue of stock.

Cross-int. 13. Do you know whether Capt. Parrott made a personal examination upon which he based his estimate referred to by you in answer to the twenty-first direct question?

Ans. I can't say that he made his estimate upon his own personal examination.

Cross-int. 14. What were the associates, under the contract referred to by you, of Nov. 1, 1861, to pay said Archbold for his property at Little Glace Bay?

(Objected to.)

Ans. As appears from the contract between said parties and said Archbold, we were to perform a certain amount of work, erect a certain number of houses and piers, estimated not to exceed seventy-five thousand dollars, for which the associates were to receive one-half the property, and the amount expended in improvements by the associates under the contract, was seventy-five thousand dollars.

Cross-int. 15. Have you the original contract between the associates and Mr. Archbold of Nov. 1, 1861? If yea, will you produce the same and annex it to your deposition?

Ans. I have, and will annex a copy, marked "EE., C. W. T., U. S. com."

234 Direct examination resumed:

Int. 1. What sums, if any, have been expended, either by the associates, or the Glace Bay Mining Company, beyond the sum of seventy-five thousand dollars required by the contract of Nov. 1, 1861? Estimate to the best of your knowledge and belief.

(Objected to.)

Ans. From what was expended while I was treasurer of the company, and from what appears by the accounts that have been made up annually, I should estimate that there had been spent for other purposes than mining and shipping coal, that is, for improvements of a permanent nature, at least, one hundred and fifty thousand dollars.

Cross-examination resumed:

Cross-int. 1. Most of this sum has been paid by the property itself, has it not? That is, the stockholders have not advanced that sum of money, have they?

(Objected to.)

Ans. It was all furnished out of the mine, except the fifty thousand dollars, for which new stock was subscribed for and issued to the stockholders.

JOSEPH H. CONVERSE.

Deposition of Dr. Estes Howe.

FRIDAY, *March* 9, 1866.

Int. 1. Please state your name, age, residence, and occupation.

Ans. My name is Estes Howe; fifty-one years old; reside in Cambridge, Mass. I am treasurer of three corporations.

Int. 2. Are you acquainted with Stephen H. Head, the complainant? If yea, state how and when you became acquainted with him.

235 Ans. I am; I first saw him in Little Glace Bay in the early part of July—I think the first day—in 1862.

Int. 3. Do you, or not, know Edward P. Archbold, the respondent? If yea, please state when you became acquainted with him.

Ans. I do know him. I first saw him at Sydney the latter part of September, 1861.

Int. 4. Were you one of the parties of the second part to the contract entered into with the said Edward P. Archbold, dated Nov. 1, 1861, concerning his mining property at Glace Bay?

Ans. I was.

Int. 5. Please state what led you to enter into the contract referred to in the last interrogatory?

Ans. My belief that money might be made out of it.

Int. 6. When and how was your attention first directed to Mr. Archbold's said mining property at Glace Bay, and what, if anything, did you thereafter learn and do about it?

Ans. In August, 1861, either James W. Emery or Gardner G. Hubbard mentioned the matter to me. Afterwards, Mr. Emery had a more full conversation on the subject with me. I was informed that it was proposed by William P. Parrott that Messrs. Emery, Hubbard, Converse, and myself should unite in an investigation of the property. The four first-named gentlemen had been frequently engaged in enterprises together, had each others confidence, and were in the habit, when any new point of enterprise was suggested, of conferring together on the subject. In this case I happened to know more, practically, about coal mines than any of the rest. Mr. Emery and, I think, subsequently, Capt. Parrott, showed me a plan of Mr. Archbold's lands and of Little Glace Bay, and of the beach at the mouth. The result of all our discussions was an agreement that Mr. Emery, Mr. Parrott, Mr. Converse, and myself, should go and examine the premises. We accordingly went, and arrived at Sidney about a week before the end of September, 1861. We there met Mr. Archbold; in company with him the next day we visited the mines, examined the Little Glace Bay lake, spent the whole of that day and the morning of the next day in exploring the property. The evening of the second day we returned to Sidney; there we four, Parrott,

Emery, Converse, and myself, had a thorough discussion and

236 conference and concluded, first, that we were satisfied with the quantity and quality of the coal; second, that there must be a good shipping place to make it valuable; third, that we were willing to take the chance upon the testimony of our senses of making a harbor where one now exists, provided we were assured that there

was no rocky bar at the mouth. It was determined to make an investigation of this point, and that some of the party should go to Glace Bay and do it; and it was finally concluded that Capt. Parrott should go himself the next day to Glace Bay, probe the beach with iron rods and ascertain the fact. He left us the next day. We occupied ourselves in driving out to see another supposed coal seam. Capt. Parrott returned in the evening, reported he had made the soundings or probings required, in connection with Mr. Mitchell, the foreman of the mine; that they found no rock; that there was a sufficient channel from the beach to deep water; that they had proved the depth of the latter inside by thrusting sticks down through the mud, and that he found no obstruction to the proposed enterprise. We then determined to open negotiations with Mr. Archbold, and Capt. Parrott and myself were appointed a committee to confer with him on the subject. We spent some hours of the next day in doing so. Mr. Archbold showed us his books and disclosed everything about the mine we asked. We made no definite bargain, but it was agreed that Mr. Archbold should visit Boston in a short time with a view and expectation of concluding the contract. We returned to Boston. Mr. Archbold arrived in Boston two or three weeks later; we had many interviews between Mr. Archbold and all the parties in interest, and finally concluded the contract about the first of November. This is my recollection of what happened.

Int. 7. Previous to July, 1862, had you, or not, any knowledge of Mr. Head, the complainant?

Ans. I never saw or heard of him before that time. I would say that I have subsequently learned that he was the person employed about the purchase and shipping of the dredge machinery in November, 1861. I did not see him at that time, nor know the name of the person employed.

Int. 8. State fully the circumstances of your meeting Mr. Head at Glace Bay in July, 1862, mentioned by you in your answer to the second question.

237 Ans. I went to Glace Bay in company with Messrs. Emery, Converse, and Hubbard. We found Capt. Parrott domiciled in an unfinished house near the harbor. Head was occupying the same house with him. We all dined with them on that day. The presence of Mr. Head living with Capt. Parrott, apparently at work for the company, excited remark among the associates, as Capt. Parrott, in his weekly reports, covering his daily journal of his transactions, had never mentioned the presence of any such person. Complaint was made to Capt. Parrott; he said he was about to discharge him. Mr. Archbold subsequently mentioned that a bill had been presented for Mr. Head's services at five dollars per day. Mr. Head left in a day or two.

Int. 9. Did or not you see the bill which was mentioned by Mr. Archbold?

Ans. I have no recollection that I saw the bill, though I have a distinct recollection of the amount, which was very near five hundred dollars.

Int. 10. Was or not your attention drawn to Mr. Archbold's mining property or to the project of entering into a contract with him concerning the same by any other persons or in any other manner than as you have already herein testified?

Ans. No, sir.

Int. 11. Where was your office in the year 1861, and did it or not connect with rooms occupied by other persons?

Ans. At 39 State street, room No. 12, connecting with room No. 13 on one side, occupied by Mr. Emery, on the other with room No. 11, occupied by Mr. Converse, Mr. Hubbard, Mr. James C. Dunn, and Mr. John M. Pinkerton.

Int. 12. During Mr. Archbold's visit to Boston in October, 1861, previous to the making of the contract of November 1, 1861, were there or not negotiations held between Mr. Archbold and parties of the second part at which you were present? If yea, state what other persons were present at the said negotiations, and over what length of time they extended, and where they were held.

Ans. There were several successive meetings from day to day; I have no recollection that any other person was present than
238 parties to the contract; if any one was so present his presence was accidental and temporary.

Int. 13. Did any person other than those who became parties to the contract take any part in these negotiations?

Ans. No.

Int. 14. Was or not Mr. Head, the complainant, ever, to your knowledge, in the place where those negotiations were carried on and while they were in progress?

Ans. No, sir.

Int. 15. Where was the contract of November 1, 1861, signed?

Ans. In one or other of the rooms I have mentioned in my answer to question eleven.

Int. 16. Name all the persons who were present at that place on the occasion of the signing of said contract.

Ans. Mr. Archbold, William P. Parrott, James W. Emery, Gardner G. Hubbard, Joseph H. Converse, and myself, with the witnesses who were asked to act as such.

Int. 17. Was Mr. Head there?

Ans. No.

Int. 18. State all that you know as to work performed by Mr. Head for either the associates or the Glace Bay Mining Company?

(Objected to.)

Ans. I know that a bill was paid for the services of Mr. Head in relation to the dredge machinery in November, 1861. I have stated all I know of his services at Glace Bay previous to July, 1862. [After the settlement with Mr. Archbold for his property by the Glace Bay Mining Company in October, 1862, and after Mr. Head had become a stockholder, Mr. Converse consulted me as to a proposition which he said Mr. Head had made to him, which was he said that Head proposed to go to Glace Bay immediately, remain during the remainder of the working season until Capt. Parrott should

return, and render to Capt. Parrott all the assistance that he could, for consideration of a loan of one thousand dollars for one year at simple interest, with Glace Bay stock as collateral; this loan to be in full of all charges for services and expenses. After reflection and consultation I assented on my part to the loan being made. Mr. Head went, as I am informed, to Glace Bay, and I know nothing further of what he did.]

239 (Counsel for complainant objects to all the last answer inclosed in brackets.)

Int. 19. Did Stephen H. Head, the complainant, ever do or say any thing that contributed to any extent to induce you to enter into the contract with Mr. Archbold, of November, 1861, or to interest you in the enterprise contemplated by said contract, in any way or at any time?

Ans. No.

Int. 20. Did Mr. Head ever, to your knowledge, do anything to induce the making of said contract with Mr. Archbold, or to promote the enterprise under the same, in any way?

Ans. No.

Int. 21. Are you or not aware that Mr. Head had an agreement with Mr. Archbold for a commission connected with the getting up of the said enterprise and the making of said contract? If yea, when and how first did you learn this?

Ans. I am aware that Mr. Head received a commission from Mr. Archbold; I first learned it by a communication by letter from Gardiner G. Hubbard, dated at Glace Bay, July, 1863.

Int. 22. Has it or not come to your knowledge that your own associate, William P. Parrott, was a partner with Mr. Head in the said commission from Mr. Archbold, and has himself received one half of the same? If yea, state when and how you first became aware of this.

(Objected to.)

Ans. I am aware of the fact; and I was first made so by reading Capt. Parrott's statement to that effect, in his deposition in this case, in the early part of January last, I think.

Cross-interrogatories, de bene esse, proposed by M. E. Ingalls, esq., of counsel for complainant.

Cross-int. 1. Were any representations made to you as to the character or quality of the Glace Bay coal, previous to your visit to the mine in September, 1861?

Ans. I think I saw some written testimonials on the subject, but I cannot recollect distinctly. I have [no] doubt I had some such testimonials before me.

Cross-int. 2. Were any representations made to you as to

240 its fitness or adaptation to particular uses or purposes, either verbal or written previous to your said visit?

Ans. I should make the same answer as I did to the previous question.

Cross-int. 3. Who made the complaint mentioned by you in answer to the eighth direct question?

Ans. I can't say which of the associates spoke to him about it.

Cross-int. 4. Did you hear said complaint made?

Ans. I heard it made, or discussed, among ourselves. I do not recollect speaking to Capt. Parrott on the subject myself.

Cross-int. 5. Were you present when any of the associates did speak to him on the subject?

Ans. I have no recollection that I was present.

Cross-int. 6. Which one of the associates did Captain Parrott tell that he was about to discharge Head?

Ans. I don't know. I know that he went, and was paid.

Cross-int. 7. Did you hear Capt. Parrott make the remark, "that he was about to discharge Head?"

Ans. I did not.

Cross-int. 8. Do you know anything about the services rendered by Mr. Head at that time.

Ans. I think I saw Mr. Head on the dredge giving directions to some person. I heard him say a good deal of what he had done; but I saw him do nothing else.

Cross-int. 9. Were the negotiations mentioned by you, in answer to the twelfth direct question, held during business hours, and in whose office were they held?

Ans. According to my recollection, we made our appointments so as to avoid interruption—usually after two o'clock. The meetings were held sometimes in my office and sometimes in Mr. Hubbard's.

Cross-int. 10. Were your offices closed during these negotiations?

Ans. In answering this, and the last interrogatory, I have no special recollection about the circumstances of this negotiation. I speak from a general recollection of several similar negotiations. I should say that my office door to the entry would be locked and the other one open, if it was after two o'clock, so that the open office would serve as an ante-room to my office.

241 Cross-int. 11. Did you know Mr. Head by sight at that time?

Ans. No.

Cross-int. 12. Might not Mr. Head, during some one of these negotiations, have passed in and out of your office without your remembering it?

Ans. Certainly.

Cross-int. 13. Was Mr. Head present at the conversation between you and Mr. Converse, mentioned by you in answer to the eighteenth direct question?

Ans. He was not.

Cross-int. 14. All you know of the matter there testified to, then, is what you heard from Mr. Converse, is it not?

Ans. Mr. Converse was the treasurer of the associates; he consulted me about the loan, because one-fourth of it was my money.

Cross-int. 15. Did Mr. Head propose to hire the money of Mr. Converse as a private individual, or as treasurer?

Ans. The loan was asked of the associates, and made by them. [Mr. Head rendered a bill for his services to be credited to the asso-

ciates, and charged to the Glace Bay Mining Company, as part of the money expended in fulfillment of the contract of the associates with Mr. Archbold which had been assigned to the Glace Bay Mining Company.]

(Counsel for claimant objects to all the above answer inclosed in brackets.)

Cross-int. 16. Did Mr. Head receive any money on said bill?

Ans. I can't say.

Cross-int. 17. You speak in answer to the nineteenth direct question, only from your own knowledge, do you not?

Ans. Of course.

Cross-int. 18. Were you one of the owners of the back leases, so called, near Glace Bay?

Ans. Yes.

Cross-int. 19. When did you first acquire your interest in the same?

Ans. About the first of October, 1861.

Cross-int. 20. When did the subject of the Glace Bay Mining Company's purchasing said back leases first arise?

Ans. It was contemplated from the first; it was first acted upon by the stockholders of the company in July, 1863.

Cross-int. 21. Was the matter discussed informally among the stockholders of said company previous to said action?

242 (Objected to.)

Ans. It was.

Cross int. 22. Was Mr. Archbold, the respondent in this suit, ever present at any of those discussions?

Ans. I don't recollect that he was.

Cross-int. 23. Did you ever speak to him about said matter previous to the said public action of the stockholders?

(Objected to.)

Ans. I don't think I ever did.

Cross-int. 24. Were the stockholders divided in opinion as to the purchase of said back leases by said company?

(Objected to.)

Ans. It appeared, when the subject came up for action, in January, 1864, at a meeting held in Boston, that there was a difference of opinion; the whole matter was finally adjusted before the final adjournment of that meeting, which took place in February, 1864.

Cross-int. 25. Who was in favor of purchasing said leases, and who were opposed to the same?

(Objected to.)

Ans. The committee appointed in July, 1863, consisted of Mr. Moran, Mr. Emery, and myself. Mr. Emery and myself agreed upon a report favoring the purchase of the leases. Mr. Moran claimed that the leases should be given to the company without charge. The stockholders of the company were opposed or in favor of the purchase, according to their interests. Mr. Moran, Mr. Archbold, Mr. Head, being opposed; Mr. Emery, Mr. Hubbard, Mr. Converse, and myself, being in favor of the purchase.

Direct examination resumed:

Int. 1. Had or not William P. Parrott any interest in and concerning the back leases? If yea, with which side did it lie, if you know?
(Objected to.)
Ans. Mr. Parrott owned one-seventh part of the back leases, and would have been entitled to receive one-seventh of the consideration if they had been purchased. His exact interest in the stock of the Glace Bay Mining Company I do not know, but think it was about the same that he held in the back leases, in which case it would
243 have made no difference to him whether the Glace Bay Mining Company took the leases by purchase or without consideration.
Int. 2. Did or not Mr. Parrott express his preference, if any, in the matter, to your knowledge?
(Objected to.)
Ans. I understood him to say he was in favor of purchasing the leases before the meeting at which the question was settled. At the meetings in January and February, at which the question was settled, he did not favor the purchase.
Int. 3. Did Mr. Head hold any interest in those leases?
Ans. He was not a party to any contract in relation to them.

Re-cross-examination:

Int. 1. What royalty is reserved in the leases of coal lands by government there?
(Objected to.)
Ans. Ten cents a ton.

ESTES HOWE.

Agreement.

United States of America, circuit court of the United States, in equity.

S. H. HEAD
vs.
E. P. ARCHBOLD.

MASSACHUSETTS DISTRICT, *ss:*

It is agreed that the Exhibits (A to N inclusive) attached to the deposition of F. H. Odiorne, taken in the above entitled suit, shall not be printed, but used as exhibits in the case by either party in their present form.

M. E. INGALLS,
Solicitor for Comp'l't.
H. W. MUZZEY,
Respondent's Solicitor.

244 *Exhibits.*

O.—C. W. T., U. S. com.

[Copy.]

BOSTON, *April 2d*, 1861.

E. P. Archibold, esq., Sydney, C. B.:

DEAR SIR: At the request of Mr. Head I write to inform you that there is now a fair prospect that an arrangement can be made with parties here to aid in the developement of the coal fields at Glace Bay.

Some of the parties who propose to enter into this arrangement now use more than two thousand tons p'r annum, which amount will be increased annually with the increase of business which is of a permanent character.

They are willing to visit your section of country next month, provided they can have, previous to leaving home, some proposition from you as a basis upon which they can determine whether it may be for their interest to make the journey.

The points upon which they wish for information are—

The present yield of the mines. The yield which is reasonably probable with sufficient means to work with effectually. The cost of mining at present and the limit to which the cost may be reduced in case your plans can be perfected.

Also the terms upon which you would be willing to form a company for working the mine, the proposition to include the amount of capital and other means to be furnished from hence to carry out fully the required plans of improvement to the mine, including the pumping of water, the alteration and improvements of the roads and the formation of the port and landings for the shipment of coal.

As after the month of September journeys eastward are not so attractive it would be well if it is your desire to conclude an arrangement that we should receive your reply by the return steamer so that the parties might leave on her return to Halifax.

Your ob'd't serv.,

(Signed) WM. P. PARROTT.

Address: Wm. P. Parrot, 20 Crescent place, Boston.

245 *P.—C. W. T., U. S. com.—Extract from Letter-Book, folios 342 and 343, per steamer via Halifax.—No. 4.*

SYDNEY, *August 31st*, 1861.

Wm. P. Parrott, esq'r, 20 Crescent street, Boston:

DEAR SIR: I have before me your letter of 20th inst., in which you state there is a disposition on the part of some parties in your fair city to aid in the developement of the coal fields at Glace Bay, some of whom are willing to visit that locality provided they get a proposition from me as to the terms on which I would be willing to have

a company formed; also you wish to know the present yield of the mines as well as what they are capable of yielding.

In reply, I shall be very glad to see these gentlemen, as they will then have an opportunity of seeing for themselves the large coal fields I own there, when they will be in a better position to make an estimate of the amount of capital it would require, which must be more satisfactory to them than getting it from me. So far, this season, I have raised over 5,000 tons, and expect, before the end of October, to have shipped about 8,000 tons, possibly 10,000, all depends on the shipping, as I could produce 20,000, aye, 30,000 tons, in a manner, as easy as one, if I could make certain of shipping it. As regards the quantity that might be shipped, with proper appliances and a harbor for shipping, it would only be a matter of labor—the more applied the greater the quantity, as there is plenty of it, added to which, I have orders from New York, Baltimore, and Boston for more than I can at present supply for want of a harbor. The terms on which I would be willing to have a company formed, would be, I should retain 50 per cent. of the whole stock when properly equipped, with every necessary for a large business, and expect the agency here. As to the cost, not being an engineer, I do not like to give an estimate of the sum required to make the necessary improvements, as it would be as likely to be under as over the actual sum required. I presume one of the gentlemen visiting the locality would be competent to do so; indeed it would be requisite that one 246 should. I may here state, I would have it thoroughly understood, that all the appliances requisite for carrying on a large business should be furnished me, free of any charge to myself, in consideration of my giving half my interest to a company.

The present cost of mining coal is 70 cents per ton for cutting, and then the labor of getting it on the bank and putting on board vessel, which would be greatly reduced by machinery, and an increased quantity shipped, the profits would be very large under these circumstances. Any further information required I shall cheerfully give the gentlemen when on the spot.

You will please observe, unless for the object in view, I wish the above information to be strictly confidential, and am, dear sir,

Your ob'd't serv't,

EDWARD P. ARCHBOLD.

Q.—C. W. T., U. S. com.

BOSTON, *Aug. 20th*, 1861.

E. P. Archibold, esq'r:

DEAR SIR: Mr. Parrott has written to you by this steamer about an arrrangement for getting up a company for your coal mines.

I hope a satisfactory arrangement can be made as I have spent much time in bringing this thing about. Please write to me when

you reply to his letter, as to whether or not you will be willing to proceed in the matter as we arranged when you was here in Boston.

Your ob't servant,

S. H. HEAD.

Address Stephen H. Head, care of Wm. P. Parrott, Boston.

Endorsement: Stephen H. Head, Boston, August 20, '61; rec'ved 29; answ.

247 *R.—C. W. T., U. S. com.*

Glace Bay Mining Company.

Certif. No. 3. Incorporated A. D. 1862. 112 shares.

Shares one hundred dollars each.

This certifies that Edward P. Archbold, of Sydney, N. S., is proprietor of one hundred and twelve shares, of one hundred dollars each, in the capital stock of the Glace Bay Mining Company, subject to the provisions of the charter and by-laws of the corporation. Dated at Boston, this 16th day of September, A. D. one thousand eight hundred and sixty-two.

[SEAL.] EDWARD P. ARCHBOLD, *President.*
JOSEPH H. CONVERSE, *Treasurer.*

Cancelled.—Transfer No. 6.

For value received, I hereby transfer to Wm. P. Parrott, of Boston, one hundred twelve as per memorandum below shares of the capital stock of the Glace Bay Mining Company, subject to *to* the provisions of the charter and by-laws of the corporation.

Witness hand this day of A. D. 186 .

EDWARD P. ARCHBOLD.

James A. Moren, Halifax	30 trans—
Henry B. Paulin, "	20 trans—
Wm. P. Parrott, Boston	62
	112

248 *T.—C. W. T., U. S. com.*

(Copy.)

I hereby release Stephen H. Head from all claims on my part to any money, shares, rights, or other property that he now is entitled to have, receive, or recover from Edward P. Archbold, or his representatives, on account of an agreement between the said Head and the said Archbold, relating to the forming and putting into operation the Glace Bay Mining Company, and I relinquish to him, the said

Head, all the right, title, and interest I now have or may have in the said agreement, between him and the said Archbold, now in controversy.

In witness whereof, I hereunto set my hand this twelfth day of October, A. D. 1865.

(S'd) WM. P. PARROTT.

And I, Stephen H. Head, do discharge, release, and acquit the said Wm. P. Parrott of all claims on my part, of or concerning the subject matter of the above release, by him to me this day made.

In witness whereof I hereunto set my hand on the day and date above written.

(S'd) S. H. HEAD.

U.—C. W. T., U. S. com.

(Copy.)

P'r Europa:

BOSTON, *May* 28, 1861.

Mess. Archbold & Co.:

GENTLEMEN: Will you be so good as to send us the following information as soon as you can:

What could a contract for 5,000 tons of coal from Glace Bay be made at p'r ton? What quantity of coal can be delivered at Glace Bay during the summer? What are the facilities for shipping coal at Glace Bay, and how large a vessel can load there? How
249 does the coal from Glace Bay compare with Sydney and Lingan coal for steam purposes? At what rate of freight could coal be shipped to Boston?

These inquiries are made at the request of a friend interested in locomotives and steam engines for which it appears the Glace Bay coal is well adapted.

Our friend Mr. Odiorne, from whom we generally charter our vessels, is so much more conversant with coal freights than we are, and as he gets his coal from you, we have given up to him the coal freights back. We are getting vessels of 1,000 bbls. to St. Peter's for $250.

Yours, very truly,

(Signed) ATHERTON, HUGHES & CO.

Is Glace Bay your concern?

V.—C. W. T., U. S. com.

SYDNEY, C. B., *June* 6, 1861.

Mess. Atherton, Hughes & Co., Boston:

DEAR SIRS: This will be handed to you by our particular friend E. P. Archbold, esq., the proprietor of the Glace Bay mines, who visits your city to make arrangements for the sale of his coal.

We handed Mr. Archbold your letter asking information in refer-

ence to the Glace Bay coal, and who will give you all the necessary information your friends require; and, if necessary, make contracts to deliver at Glace Bay or Boston the quantity required by them.

Commending Mr. Archbold to your kind consideration, and assuring you that any contracts he may enter into will be faithfully fulfilled, we are, dear sirs, yours very truly,

ARCHIBOLD & CO.

Endorsement.—G. B.; Archibald & Co. June 6, 1861.

250 *W.—C. W. T., U. S. com.*

BOSTON, *Feb.* 26, 1866.

To Charles Levi Woodbury & M. E. Ingalls, esquires, solicitors of Stephen H. Head:

DEAR SIRS: You are hereby respectfully notified and required to produce at the taking of the deposition of Edward P. Archbold, before Charles W. Tuttle, esquire, U. S. commissioner, at 10 o'clock a. m., on Tuesday, Feb. 27, 1866, in the suit of said Head *vs.* said Archbold, now pending in the U. S. circuit court, in the district of Massachusetts, the letter of said Archbold to said Head, dated August 31st, 1861.

Resp'y yours,

H. W. MUZZEY,
Def't's Solicitor.

I acknowledge service of this copy.

M. E. INGALLS,
Solicitor for S. H. Head.

X.—C. W. T., U. S. com.

Extract from letter book, folio 341, per steamer via Halifax.

SYDNEY *August* 31*st*, 1861.

Stephen F. Head, esqr., Boston:

DEAR SIR: Your letter of the 20th inst., with one from Mr. Parrott of the same date, I duly received.

I have written to Mr. Parrot respecting the terms on which I would be willing to have a company formed for the full development of the Glace Bay coal fields.

On my return from Boston, parties in Halifax wished me to offer the place on somewhat similar terms to a company to be
251 formed there, but I have since done nothing in the matter, as I determined to continue my own small working, which I find is more than doubling itself each year; and next year I am in hopes, by means of a small breakwater, to do a much larger business; yet, having once made you the offer, I shall not retract. I wrote my terms to Mr. Parrott the same as you and I determined on when in Boston—50 per ct. to be retained by me, out of which 50 per ct. you and the parties promoting the scheme are to get 15 per ct., leaving

me 35 per ct. as my share—the company to furnish everything requisite for the work, and to give me the agency here. When the parties Mr. Parrott alludes to arrive here, we can more readily come to conclusions as to cost and requisites than by writing. Hoping you are quite well, I am yours, very truly,

EDWARD P. ARCHBOLD.

Y.—C. W. T., U. S. com.

GLACE BAY MINING COMPANY.

Shares one hundred dollars each.

Certif. No. 2. Incorporated A. D. 1862. =1= shares.

This certifies that Edward P. Archbold, of Sydney, N. S., is proprietor of one shares of one hundred dollars each in the capital stock of the Glace Bay Mining Company, subject to the provisions of the charter and by-laws of the corporation.

Dated at Boston, this 16th day of September, A. D. one thousand eight hundred and sixty-two.

EDWARD P. ARCHBOLD, *President.*
[SEAL.] JOSEPH H. CONVERSE, *Treasurer.*

Cancelled.—Transfer No. 14.

For value received, I hereby transfer to Henry B. Paulin, of Halifax, N. S., one (1) share of the capital stock of the Glace Bay Mining Company, subject to the provisions of the charter and by-laws of the corporation.

Witness my hand this tenth day of March, A. D. 1864.

EDWARD P. ARCHBOLD.

252 *Z.—C. W. T., U. S. com.*

GLACE BAY MINING COMPANY.

Shares one hundred dollars each.

Certif. No. 6. Incorporated A. D. 1862. 40 shares.

This certifies that Edward P. Archbold, of Sydney, N. S., is proprietor of forty shares of one hundred dollars each in the capital stock of the Glace Bay Mining Company, subject to the provisions of the charter and by-laws of the corporation.

Dated at Boston, this 16th day of September, A. D. one thousand eight hundred and sixty-two.

EDWARD P. ARCHBOLD, *President.*
[SEAL.] JOSEPH H. CONVERSE, *Treasurer.*

Cancelled.—Transfer No. 1.

For value received, I hereby transfer to Stephen H. Head, of Boston, forty shares of the capital stock of the Glace Bay Mining Company, subject to *to* the provisions of the charter and by-laws of the corporation.

Witness my hand this 18th day of September, A. D. 1862.

EDWARD P. ARCHBOLD.

AA.—C. W. T., U. S. com.

GLACE BAY MINING COMPANY.

Shares one hundred dollars each.

Certif. No. 7. Incorporated A. D. 1862. 72 shares.

This certifies that Edward P. Archbold, of Sydney, N. S., is proprietor of seventy-two shares of one hundred dollars each
253 in the capital stock of the Glace Bay Mining Company, subject to the provisions of the charter and by-laws of the corporation.

Dated at Boston, this 16th day of September, A. D. one thousand eight hundred and sixty-two.

EDWARD P. ARCHBOLD, *President.*

[SEAL.] JOSEPH H. CONVERSE, *Treasurer.*

Cancelled.—Transfer No. 7.

For value received, I hereby transfer to S. H. Head of seventy-two shares of the capital stock of the Glace Bay Mining Company, subject to *to* the provisions of the charter and by-laws of the corporation.

Witness hand this 16 day of Feb'y, A. D. 1863.

EDWARD P. ARCHBOLD.

BB.—C. W. T., U. S. com.

GLACE BAY, *July 1st*, 1862.

Mr. S. H. Head has worked at Glace Bay from Mar. 5th to June 19th, ninety-five days, *a* $5 00		$475
Deduct. Paid by Mr. Archbold	$62 85	
" " W. P. Parrott	22 93	
		86 78
		368 22

July 1st, 1862. Wm. P. Parrott.

Sydney, July 4th, 1862.

Received payment,

S. H. HEAD.

Endorsement: S. H. Head, $487 00.

Ent. of Day Book July 1st, 1862.

254 *CC.—C. W. T., U. S. com.*

[Copy.]

BOSTON, *Nov'r 30th*, 1861.

J. H. Converse and others to S. H. Head.

Going to New York to examine the dredging machines there, 3 days, *a* $10	$30 00
Expenses paid	16 00
Superintending building and shipping dredging machine in Boston, 16 days, *a* $10	160 00
	206 00

Approved: Wm. P. Parrott.

Rec'd p'm't,
S. H. HEAD.

DD.—C. W. T., U. S. com.

Copy of record of meeting of stockholders of the Glace Bay Mining Company, held September ninth, A. D. 1862.

"The stockholders of the Glace Bay Mining Company met according to adjournment at the office of Joseph H. Converse, in Boston, at two o'clock p. m.

"Present, Messrs. Archbold, Parrott, Emery, Howe, Converse, and Hubbard.

* * * * * * *

"The committee appointed at the last meeting of the company to confer with Mr. E. P. Archbold in regard to the conveyance of the real estate, mining privileges, and water-rights held by him at Glace Bay, report that, in their opinion, the contract between Mr. Archbold of the first part, and William P. Parrott, J. W. Emery, E Howe, J. H. Converse, and G. G. Hubbard of the second
255 part, dated November 1st, A. D. 1861, should be assigned by Mr. Archbold to the company, with the assent of the parties of the second part, such assignment to be in the nature of an indenture of three parts, by Mr. Archbold of the first part assigning the contract to the company, by Messrs. Parrott, Emery, Howe, Converse, and Hubbard of the second part, agreeing to complete the execution and performance of said contract, so far as it remains to be fulfilled and performed by them, excepting so far as it may be modified, waived, or changed by agreement between them and Mr. Archbold, by the company of the third part, agreeing to deliver seventy-five thousand dollars in stock to the parties of the second part, as is provided in said agreement, whenever and as fast as the said contract is performed by them; and further agreeing that Mr.

Archbold's decision as to the completion and performance of the same, including all modifications thereof, shall be binding on the company as their act.

"That Mr. Archbold should execute and deliver to the company a warranty deed of all the land owned by him at Glace Bay at the time of the execution of said agreement of November 1st, A. D. 1861, the same to be free from all incumbrances.

"That he should assign the mining lease of the premises referred to in said agreement, being dated December 15th, A. D. 1860, recorded in book X, page 398 of Deeds of the County of Cape Breton, Province of Nova Scotia.

"That he should assign, by deed of quitclaim, the various parcels of land acquired by him at Glace Bay since the date of said agreement, and all contracts for the conveyance of any other parcels of land at Glace Bay, excepting a parcel applied for by him for Renold Black.

"That he should transfer all his interest in the mining property, and property used in mining, at said Glace Bay.

"That thereupon the treasurer of the company should deliver to him certificates of stock for seventy-five thousand dollars in full payment of such deeds and transfers.

"All of which is respectfully submitted.

"ESTES HOWE.

"Boston, September 9th, 1862.

"Voted: That the report be accepted.

"Voted: That Messrs. Emery, Archbold, and Hubbard be
256 a committee with full power to prepare and draft the necessary papers to carry out the report of the above committee.

* * * * * * *

"JOSEPH H. CONVERSE, *Clerk.*"

Extract from record of adjourned meeting of stockholders, held September 11th, 1862.

* * * * * * *

"The committee appointed at a previous meeting, consisting of Messrs. Emery, Archbold, and Hubbard, to prepare and draft the necessary papers to carry out the report made by Estes Howe, esq., submitted and adopted at meeting held Tuesday, the ninth instant, reported as follows:

"The committee appointed to draft the papers referred to in the report of E. Howe, esq., report that they have prepared the following papers, to wit:

"First. An assignment of the agreement between Messrs. Archbold and Parrott, Emery, Howe, Converse, and Hubbard, dated November 1st, A. D. 1861—said assignment being an indenture of three parts, between said Archbold of the first part, Messrs. Parrott, Emery, Howe, Converse, and Hubbard of the second part, and the Glace Bay Mining Company of the third part.

"Second. A warranty deed from E. P. Archbold, esq., to the company of one hundred and forty-eight acres of land at Bridgeport and Glace Bay.

"Third. A deed from E. P. Archbold to the company, conveying all the real estate, contracts for real estate, and mining property owned by the said Archbold at Glace Bay.

"Fourth. An assignment of the mining lease of said Archbold.

"All of said papers being dated the eleventh day of September, A. D. 1862. The first and fourth of said papers to be executed by the corporation.

"J. W. EMERY,
"E. P. ARCHBOLD,
"G. G. HUBBARD,
Committee."

"Said papers having been read, it was voted

257 "That the foregoing report be adopted.

"Voted: That Messrs. Emery and Hubbard be a committee to execute, on behalf of this corporation the assignment of the agreement between E. P. Archbold and Messrs. Parrott, Emery, Howe, Converse and Hubbard—dated November 1st, A. D. 1861.

* * * * * * *

"JOSEPH H. CONVERSE, *Clerk.*"

Extract from record of adjourned meeting of stockholders, held September 12th, 1862.

"Voted: That E. P. Archbold and William P. Parrott, the committee appointed to decide when the work under the contract of E. P. Archbold of the first part, and W. P. Parrott, J. W. Emery, Estes Howe, J. H. Converse and G. G. Hubbard, of the second part, dated November 1st, A. D. 1861, is completed, be requested to report how much of the work under said contract is now completed and how much stock of this corporation the parties of the second part are entitled to receive. Whereupon, they submitted the following report.

"The committee appointed by the stockholders to determine the amount of work done under the original contract, respectfully report that they find that the amount already expended under the provisions of said contract is upward of forty-two thousand dollars, and they recommend that forty thousand dollars of stock should be issued under the provisions of said contract.

"E. P. ARCHBOLD,
"W. P. PARROTT.

"Voted: That the report of the committee be adopted, and the treasurer be authorized to issue stock accordingly.

* * * * * * * *

"JOSEPH H. CONVERSE, *Clerk.*"

258 *EE.—C. W. T., U. S. Com.*

Copy of Agreement between Edward P. Archbold and Messrs. Parrott, Emery, Howe, Converse and Hubbard.

Whereas, Edward P. Archbold of Sydney, in the county of Cape Breton, and Province of Nova Scotia, party of the first part, is the proprietor of land in Cape Breton, at Little Glace Bay, so-called, a small bay in the northern extremity of Cape Breton, between Cow Bay, Big Glace Bay, and Lingan, and has the further right of mining under 640 acres of land, more or less, situated on and near said Little Glace Bay, as by reference to a plan of said lands accompanying this agreement, will more fully appear, and has mined about seven thousand tons of coal from said land during the present year, and sold the same at a net profit of not less than one dollar per ton; and whereas the vein in said premises from which said coal was mined is of about eight feet in thickness, running through the greater part of said premises, containing, as is supposed, several million tons; besides a vein of cannel coal of about 26 inches in thickness lying under said first vein and of corresponding extent; and whereas said Archbold is desirous of interesting other parties in said mine, and extending the working thereof by the aid of new capital. And whereas William P. Parrott, James W. Emery, Estes Howe, Joseph H. Converse, and Gardiner G. Hubbard, of the second part, all of Boston, in the county of Suffolk and commonwealth of Massachusetts, have, excepting said Hubbard, visited said lands, and are desirous of acquiring an interest in said lands and mining rights.

Therefore—

It is hereby agreed that the parties hereto shall apply to the General Assemby of the Province of Nova Scotia, for an act of incorporation, at the next session thereof, to contain the usual powers to mining corporations, and with the further right of opening and maintaining a harbor at Little Glace Bay, and upon the obtaining said charter, all the said land and mining rights, and all rights under this indenture, shall be conveyed to said company as is herein provided.

Second. Upon the granting of said act, the capital stock
259 shall be fixed at one hundred and fifty thousand dollars, to be subscribed for jointly by the parties hereto, that is—

The party of the first subscribing for seventy-five thousand dollars; and the party of the second part subscribing for seventy-five thousand dollars.

And the party of the first part shall thereupon convey his land and mining rights, together with all the coal and personal property in and upon the said premises, used for carrying on the business at said mines, to said company; who shall purchase the same at said price of seventy-five thousand dollars, payable in stock of said company at par.

Each party having the right of a vote for each share subscribed for by them.

Third. The party of the second part shall subscribe for seventy-

five thousand dollars, to be paid by instalments, as is herein provided, stock to be issued to the parties paying the same, from time to time, to the amount of their several payments.

The said sum to be expended in opening the mine in manner as follows, viz:

Building two piers at the entrance of Little Glace Bay, and turning the water from the lake, through a new channel to be cut between these piers in general conformity with the plans and specifications of Wm. P. Parrott; said plans being signed by the parties, and annexed hereto.

Taking down a bridge, at present standing near the mouth of said lake, and erecting the same at some suitable place above its present location, and building a new road to conform to the new location of the bridge.

To erect sufficient wharves, on each side of the bay, to accommodate six vessels at a time, of the size usually employed in carrying coals from Sydney and Pictou; so they may lay thereto in safety, while receiving their cargoes.

Purchasing a tract of 500 acres of land adjoining said Glace Bay and lake, if the same can be obtained at a reasonable price.

Furnishing the iron and sleepers, and constructing a railroad from the pits on each side of the harbor and the wharves; so that the loaded cars can run from the mine, and discharge their coal into the vessels.

260 Providing three pumps, and sufficient steam-power to work the same, of sufficient size to drain the mines.

Erecting twenty houses, 24 × 18 feet, battened or shingled, plastered, roofs shingled, 14 feet posts, arranged for the boarding houses of the miners and a store house of suitable dimensions.

An engine or engines furnishing sufficient motive power for raising the coal, and an engine, or sufficient motive power, for moving the coal from the shafts to the vessels, and returning the cars.

Also, cars or wagons, and other tools and materials sufficient for raising coal enough for loading six vessels, arriving at or about the same time.

Also to purchase steam tug in good order and condition, of sufficient power for towing the vessels usually employed in the business, and capable of towing a loaded vessel of the capacity of 600 tons.

To furnish the company with a working capital of five thousand dollars.

Fourth. The party of the second part agrees to furnish two of the three engines and pumps immediately, and to procure the necessary materials so that they may commence the work upon the harbor at as early a day next spring as may be practicable, purchasing land and materials for bridge, wharf, piles, scantling for houses, and coal wagons, estimated at fifty-three hundred dollars, within three months.

The remainder of the work to be pushed as fast as is required by the opening of the mine and introducing the coal into market, it being the expectation that said parties will expend about thirty

thousand dollars during the ensuing season, and the balance during the year 1863.

If these works can be furnished and executed for a less sum than seventy-five thousand dollars, then said party of the second part shall hold the balance of stock over, as profit for doing said work.

The first party not to be called upon to contribute towards these improvements, until the party of the second part has furnished seventy-five thousand dollars, as above provided, after which each party is to contribute equally, if necessary.

The party of the second part agrees to furnish eight thousand dollars for the purpose of mining coal within the next six months, in addition to the amount to be advanced by the party of the first
261 part as provided in the fifth article hereof; said amount to be refunded to them from the first sales of coal in the next season.

Fifth. The party of the first part further agrees, that he will at once proceed to sink two additional shafts, about fifty feet in depth each, one on either side of the lake; and to sink one to the supposed level of the vein of cannel coal, and to drive drifts for the purpose of mining the coal, and to employ as large a gang of miners for said purpose, and in mining coal, as can be advantageously worked; expending not less than eight thousand dollars in the next six months; said sum to be refunded to him from the first sales of coal in the next season.

Sixth. It is the expectation of the party of the first part that, by opening the mine as herein proposed, there can be mined and sold about thirty thousand tons of coal the ensuing season, and a much larger amount in the year 1863.

The proceeds of sales of coal are to be appropriated—

First, to paying the sums advanced by the parties as herein provided, for the purpose of mining:

Next, to pay the subsequent cost of mining the coal, and the balance belonging equally to the stockholders in said company, to be appropriated towards the payment and expenditures, provided in the third article hereof, to be made by the party of the second part; said party of the first part deducting two thousand dollars per annum from his share, and loaning the balance thereof to the party of the second part; they accounting to said party of the first part for the amount advanced by him; with six per cent. interest thereon, to be paid when the mine is capable of raising forty thousand tons of coal per annum, or at the expiration of three years from the advance, at the option of the party of the second part.

Seventh. All the coal mined after the date of these presents, and all the coal now on hand at the mine or on the bank, shall be held by the party of the first part in trust, to convey the same to the said corporation when organized; and all the real estate, mining rights, and personal property named in this instrument, held by the said party of the first part, and used in carrying on his business of
262 mining coal at Little Glace Bay, shall also be held by him in trust as aforesaid, after paying him the cost of mining the coal then on the surface; and conveyed to said corporation when

organized, with warranty against all incumbrances, and free from all claims and demands.

Eight. In case it shall be found impossible to obtain an act of incorporation, then said premises shall be conveyed to trustees to be selected one by each of the parties hereto, and the third by the two so chosen; and shall be managed by articles of association, as a joint stock company, in accordance with the provisions of this agreement.

Ninth. No authority is given by either of the parties hereto to authorize the other to contract any debt binding upon the other.

In witness whereof the said parties have hereto set their hands and seals, this first day of November, A. D. 1861.

[L. S.] EDWARD P. ARCHBOLD.
[L. S.] WM. P. PARROTT.
[L. S.] JAMES W. EMERY.
[L. S.] ESTES HOWE.
[L. S.] JOSEPH H. CONVERSE.
[L. S.] GARDINER G. HUBBARD.

Executed in presence of—
J. M. PINKERTON and
TRACY HOWE.

263 UNITED STATES OF AMERICA, *Massachusetts District, ss:*

I, Edwin T. Nash, clerk pro tem of the circuit court of the United States for the first circuit, Massachusetts district, do hereby certify that the foregoing is a true copy of the record, and of all the proceedings in the cause in equity, of Stephen H. Head *vs.* Edward P. Archbold, in this court determined.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court, at Boston, this twenty-seventh day of November, in the year of our Lord one thousand eight hundred and sixty-six, and in the ninety-first year of the independence of the United States.

[SEAL.] EDWIN T. NASH,
Clerk pro tem.

264 Know all men by these presents, that we, Stephen H. Head, as principal, and George L. Shepard, of Boston, in the district of Massachusetts, as surety, holden and stand firmly bound and obliged unto Edward P. Archbold, of county of Cape Breton, province of Nova Scotia, in the full and just sum of five hundred dollars, to be paid unto the said Edward P. Archbold, his executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, dated the 26th day of October, in the year of our Lord one thousand eight hundred and sixty-six.

The condition of this obligation is such, That whereas lately at a circuit court of the United States for the first circuit within and for the district of Massachusetts, in a suit depending in said court between Stephen H. Head, complainant in equity, and Edward P.

Archbold, respondent, judgment was rendered against the said Stephen H. Head, and the said Stephen H. Head has obtained leave of court to recover said cause to the Supreme Court of the United States, and has filed a transcript of the record of said circuit court in said cause in the office of the clerk of the Supreme Court of the United States, to reverse the judgment in the aforesaid cause, now if the said Stephen H. Head shall prosecute his said appeal to effect, and answer all damages and costs, and shall well and truly pay or cause to be paid to the said Archbold the amount of said judgment rendered in said circuit court as aforesaid, together with such additional costs as may be decreed against him if he shall fail to make good his appeal, then this obligation shall be null and void, otherwise shall remain in full force and virtue.

[L. S.] S. H. HEAD.
[L. S.] GEO. L. SHEPARD.

Approved.

NATHAN CLIFFORD,
Ass. Jus. U. S. S. C.

A true copy of an original bond on file in the office of the clerk of the circuit court of the United States for the first circuit and district of Massachusetts.

Attest: EDWIN T. NASH,
Clerk pro tem. U. S. C. C.

